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THE HISTORY

OF

TWENTY-FIVE YEARS

1856-1880

IN FOUR VOLUMES

BY THE SAME AUTHOR

THE HISTORY OF TWENTY-FIVE YEARS

1856—1880

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THE HISTORY

OF

TWENTY-FIVE YEARS

1856—1880

BY

SIR SPENCER WALPOLE, K.C.B.

AUTHOR OF

'A HISTORY OF ENGLAND FROM THE CONCLUSION OF THE GREAT WAR IN 1815'

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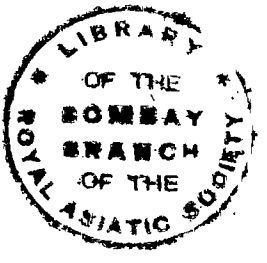

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PREFACE

In 1904 the late Sir Spencer Walpole published the first two volumes of his 'History of Twenty-five Years' (1857–1880), and the volumes now issued bring the narrative down to the date which he had assigned to himself as its limit. The chapters in these two final volumes were almost completed by the author before his death. He intended, as will be seen from a Note appended to the last page, to insert at least two additional chapters; and it is much to be regretted that he did not live to finish them; though the final paragraphs, to conclude the whole history, had been written, and will be found in their place at the end. Sir Spencer Walpole's manuscript required, therefore, no more than some re-arrangement, such as the division of the chapters and the allocation of certain portions to their proper places; but otherwise the book has been printed as the author left it, with the general revision that he himself would have made before publication.

In undertaking the work, which has been entrusted to me by Lady Walpole, of superintending the passage of these volumes through the press, I conceived my duty to be restricted to correcting misprints, slight errors, and manifest oversights, which

the author would certainly have seen and remedied, verifying the numerous references in the footnotes, omitting paragraphs that had been inadvertently repeated, and inserting facts and dates which the author evidently meant to put in later. It need hardly be added that the views and conclusions recorded by Sir Spencer Walpole stand untouched, as he wrote them.

In his Preface to the first two volumes that appeared in 1904, Sir Spencer Walpole described the scope and design of his 'History of Twenty-five Years,' and explained the rules and methods that he had adopted in composing it. He also gave the reasons that determined him to give this work a new title, although it is in fact a continuation of his 'History of England from 1815 to 1857.' He said that during the next following period—from 1857 to 1880—the connexion of England with foreign affairs was of predominant interest, and that the importance of domestic affairs was comparatively secondary. Accordingly, in those volumes he allotted long chapters to continental events and transactions, and to the policy of the British Government in relation to them. It will be seen that in the two volumes now published he has followed a similar plan. The first opens with a chapter on the Treaty of London and the Geneva Award, while the second volume contains chapters on the Eastern Question, and on the important part taken by the British Government in the negotiations connected with the Russo-Turkish War and the Berlin Treaty.

It is not to be expected that a posthumous work, revised by other hands, could have been brought up

to the same finished standard that the author would have set for himself. But in the opinion of the present writer the characteristics that distinguish Sir Spencer Walpole's previous history—scrupulous accuracy, luminous arrangement of details, clear exposition of facts, with abundant citation of the authorities on which they were stated—are in these volumes throughout maintained. The author has been particularly careful to balance the evidence and arguments in controverted questions, and to place fully and fairly before his readers his reasons for the judgment that he has passed on the policy or conduct of Governments and Ministers at home or abroad. In all these respects his work may be accounted sound, trustworthy, and exceptionally valuable; and those who desire to read or refer to the annals of Great Britain's economical progress, or the course of parliamentary legislation and administrative reforms, and to study the influence and interaction of British politics upon continental affairs, are likely to find no better or surer information and guidance than in the nine volumes that now cover the whole period between 1815 and 1880. With regard to Indian history, of which I may perhaps claim some special knowledge, the two chapters on this subject (xxvi., xxvii.) in the fifth volume of Sir Spencer Walpole's 'History of England' contain, in my judgment, an admirable summary of the rise and expansion of British dominion in India during the eighteenth and nineteenth centuries, with a very clear and correct appreciation of the circumstances and the successive incidents to which its gradual establishment over the whole country is due.

Sir Spencer Walpole's extensive knowledge of English history was supplemented by practical experience in administration. The greater part of his work and life was spent in the public service, from his first appointment to the War Office until, after holding for nearly twelve years the Lieutenant-Governorship of the Isle of Man, he accepted the Secretaryship of the Post Office, which he resigned in 1899. From that time his leisure was mainly given to the production of the four volumes that are now completed. But for many years he had combined assiduous application to official business with literary activity, and his personal popularity brought him into contact with many of the leading English politicians. To these qualifications for a right understanding of political thought and action, and for appreciating the movement of ideas, he added the clear intelligence, the habitual exactitude, the earnest desire to be just, moderate, and impartial in his criticisms, that are so essential in a historian who deals for the most part, in these later volumes, with the incidents and personages of his own time and generation. In all his social relations the same characteristics appeared. He had the gift of inspiring perfect confidence, and he made many warm friends who regret his loss and honour his memory.

A. C. Lyall.

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THE

HISTORY OF TWENTY-FIVE YEARS.

CHAPTER XIV.

THE TREATY OF LONDON AND THE GENEVA AWARD.

The achievements of 1869–70.

WHEN Parliament was prorogued, at the close of the session of 1870, the members of the Liberal party had a right to look back with satisfaction on the labours of the two preceding years. The promises of the general election had been redeemed. The Irish Church had been disestablished and disendowed; the Irish land system had been reformed; elementary education had been made universal and compulsory; administrative reforms of the highest importance had been effected in the army and the navy; the expenditure of the country had been reduced; and the burdens on the taxpayer had been sensibly diminished. Something, indeed, still remained to be done. The third branch of the Irish upas tree had not been cut down; no provision had yet been made for the higher education of the Irish Roman Catholics; the prizes of the great English universities had not been thrown open to Nonconformist England; the protection of the ballot had not

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been extended to the parliamentary elector; the higher posts of the army had not been opened to the officers who could not afford to purchase their promotion. But so much had been accomplished in two sessions that old-fashioned Liberals, accustomed to the conservative policy of Lord Palmerston, were already complaining that the pace had been a little too fast. The accomplishment of reform invariably reduces the ranks of the reformers. For many men who have surmounted the hill which it was their immediate object to climb, instead of attacking the new Alp before them, are apt, like Lord John Russell's traveller, to rest and be thankful.

The discontent of the Nonconformists.

While the right wing of the Liberal party was anxious for a little repose,[1] many members of its left wing were becoming greatly dissatisfied with the policy of its leaders. One section of it in particular thought that they had been betrayed by the compromise with the Church on the subject of elementary education. Mr. Gladstone and Mr. Forster, both in what they had done and in what they had left undone, had disregarded the wishes of Nonconformist England. They had left the Church in practical possession of the education field; they had not even excluded denominational teaching from the State-supported school. The defects of the Act were a heavy price to pay for its benefits; and from their point of view the Nonconformists would have preferred the postponement of universal education to the perpetuation of Church schools. Thus at the moment at which moderate Liberals were beginning

[1] A distinguished member of the Liberal party, writing a little later to a Conservative, expressed this view by saying 'I hope your friends will come in and do absolutely nothing.'

to complain that the pace was a little too fast, the group of men who sat below the gangway were declaring that Mr. Gladstone was guiding his Cabinet on the wrong side of the post. One set of men thought that the Government was doing too much, the other set, that much which the Government was doing was wrong.

The effects of the war of 1870 on Mr. Gladstone's Ministry.

And so it happened that, while the Liberal crew were sweeping on their victorious course some members of it were drooping at their oars, and the coxswain himself, other members complained, was steering a wrong course; the rowing was becoming irregular, and there was no longer the symmetry and rhythm in the swing which had carried the boat from victory to victory. And at this precise moment the outbreak of war on the Continent was introducing new conditions and raising new questions which were hampering the Cabinet and perplexing the nation. For Mr. Gladstone was essentially a Minister of peace—his whole policy was directed to the promotion of peace and to the furtherance of those reforms which peace makes possible—and war was raising issues with which Mr. Gladstone from his temperament was less fitted to deal than other men of character and capacity far inferior to his own. War, indeed, was doing more than this—it was throwing a doubt on the expediency of some of the reductions which the Ministry had effected. A week after the publication of the Belgian treaty the Government felt constrained, on Mr. Cardwell's insistence, to ask for a vote of credit of 2,000,000*l.*, and for authority to add 20,000 men to the army. And though the money was of course granted, criticism was given an opportunity for declaring that

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the Government had, in the course of two years, discharged some 24,000 seasoned soldiers and was now replacing them with 20,000 recruits.[1]

The surprising results of the war, indeed, modified the criticism. The rapid success of the Prussian army created, in the first instance, a belief that a great danger had been removed from the path of the English people. Under Lord Palmerston's guidance the country had been taught to believe that the first object of Napoleon III.'s policy was the humiliation of England; and the fall of the French Empire was accepted as the collapse of the hereditary enemy of Great Britain. The reductions which had been made in the army and navy estimates under Mr. Gladstone's inspiration seemed, after all, justified by events; the British citizen thought that he might sleep the more securely after changes which had raised Prussia to the first place among continental nations, and which had reduced France to the third or fourth, and the Government even found it unnecessary to spend more than two-thirds of the vote of credit which they had obtained. But, as the winter rolled on, and victory after victory rewarded the Prussian army, the sympathies of the many were attracted by the misfortunes of France, and the fears of a few were excited by the marked predominance of Prussia. Two pamphlets, widely read at the time, gave expression to this alteration in public opinion. In 'Dame Europa's School' a writer who suddenly became famous, and whose reputation depends on the single allegory, made a powerful

[1] *Hansard*, vol. cciii. p. 1440, and cf. p. 1446. Mr. Cardwell's insistence on this vote will be found in Sir R. Biddulph's *Mr. Cardwell at the War Office*, p. 65.

appeal to the conscience of England to sympathise with and support her beaten neighbour. In 'The Battle of Dorking' a military man, who was already widely known as an accomplished writer on military subjects, made a still more powerful appeal to the apprehensions of the nation by dramatically describing the invasion of an unprepared England by an organised Germany. Thus the great struggle on the Continent was gradually promoting ideas inconsistent with the principles which Mr. Gladstone was asserting, and on which his Government was founded. For those who read 'Dame Europa's School' were questioning the expediency of non-intervention, while those who read 'The Battle of Dorking' were beginning to think that even economy and retrenchment might be carried too far.

Lord Granville's foreign policy.

If the sympathies of the nation were awakening under the influence of French misfortune; if the apprehensions of the nation were aroused by the striking evidence of German ambition and power, the men to whose hands the guidance of England's policy was entrusted pursued a somewhat cold, but singularly impartial course.[1] Deploring as they did the outbreak of the war, Mr. Gladstone's and Lord Granville's efforts were directed to prevent its extension, and above all, to preserve the country from being drawn into the whirlpool. In the days which followed the crushing disaster of Sedan, Lord Granville proposed and the Austrian Government agreed, that 'neither England nor Austria should

[1] I have not thought it necessary to refer in the text to the complaints which the Prussian Ambassador in London made of 'the clandestine exportation of contraband of war to France' (see *State Papers*, vol. lxi. p. 714, and cf. pp. 754, 759), for, on the whole, no serious breach of neutrality occurred.

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depart from her neutrality in the present war without some previous communication to the other.'[1] The same arrangement was subsequently made with Denmark and a similar agreement was also concluded with Italy.[2] Lord Granville, therefore, not only closed the door to any active assistance from England: he made it also more difficult for France to obtain aid from any power which had a defeat to revenge or a prestige to restore.

The distress of France.

And never had any country been in greater need of help than France in the opening days of September 1870. She had no organisation to oppose to her invaders. She had not even a government to organise her opposition. For just as the news of Wörth and Forbach had destroyed the Ollivier Ministry, so the tidings of Sedan swept away the Second Empire. The unhappy lady who for seventeen years had occupied the throne of France was compelled to seek refuge in Belgium and England,[3] and power, or the semblance of power, fell into the hands of the men who had been distinguished for their opposition to the war and their hostility to the Second Empire.

The provisional Ministry of M. Favre.

The two men to whom France—or perhaps it would be more accurate to say Paris—turned in the hour of her necessity, were M. Thiers, the veteran minister of Louis Philippe, one of the few men who have achieved equal fame in letters and affairs, and M. Jules

[1] *State Papers*, vol. lxi. pp. 740, 745.

[2] *Ibid.*, p. 751; Seignobos, *Histoire Politique de l'Europe Contemporaine*, p. 774.

[3] The Empress, on reaching England, was received by the Queen. I have high authority for saying that at the interview she laid the whole blame of what had occurred on herself. Months later, when the Emperor reached England, he held language equally honourable. 'Mea culpa, mea maxima culpa,' he kept on repeating.

Favre, who shared with M. Ollivier the distinction of being one of the original 'Five.' M. Thiers, who had already reached his seventy-second year, declined to take any active part in the new government, though he almost immediately undertook to plead the cause of France with the great powers of Europe. Thus, in default of M. Thiers, M. Favre found himself at the head of the new administration. In one sense, indeed, he represented nothing. He had no authority to represent the French nation or the French people. But, just as it was said that Paris had not consummated the fall of the Empire, but had acclaimed it in the name of public safety,[1] so it might be said that M. Favre succeeded to the head of affairs from the conviction that help could only be found among those who had resisted the Empire. M. Favre, however, was soon joined by M. Gambetta, the fiery advocate who had defended M. Delescluze by attacking the Emperor.[2] General Trochu, whose work on the French army ('L'Armée Française en 1867') had placed him in the front rank of military reformers, was specially entrusted with the defence of Paris. The position which he had so long occupied gave M. Favre an ascendency among these men, and he took charge of the French Foreign Office. Believing, or affecting to believe, that the quarrel which had led to the war was a quarrel between Germany and Napoleon III., he assumed, or pretended to assume, that the deposition of the Emperor had removed every pretext for its continuance. In a circular

[1] 'Paris n'a pas prononcé la déchéance de Napléon III. et de sa dynastie, mais qu'elle l'a enregistrée au nom du Salut Public.'—Hanotaux, *Histoire de la France Contemporaine*, vol. i. p. 14.

[2] *Ante*, vol. ii. p. 476.

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which he issued to the French diplomatic agents on September 6, he declared that the King of Prussia had made war on a dynasty. The dynasty had fallen. Would he continue it on a people? Would he, in this nineteenth century, exhibit to the world the cruel spectacle of two nations, locked in a death struggle, scattering ruin and death, in defiance of humanity, reason and knowledge? His be the responsibility who continued the struggle. But a shameful peace could only lead to a new war of extermination. For France, which had still a resolute army, and well-equipped fortresses, which behind its fortresses had its ramparts, behind its ramparts its barricades, behind its barricades 300,000 men ready to fight on to the last gasp, would not 'yield an inch of her territory, or a stone of her fortifications.'[1]

M. Favre's appeal to England.

When nations declare war they cannot hope to shuffle off their responsibility by changing their rulers. And France, in the hour of her defeat, had to deal with an adversary whose policy was directed by a statesman without any pity in his composition. M. Jules Favre's declaration and Count von Bismarck's temperament made it certain that peace could not be secured on such terms as France was yet ready to grant. Yet M. Jules Favre did not confine himself to a mere explanation of his policy. On the day on which his circular despatch was posted he approached Lord Granville through Lord Lyons, and suggested that 'a neutral power might propose an armistice to Prussia, with a view to a peace, based on a pecuniary indemnity and without any sacrifice of

[1] See for the despatch *State Papers*, vol. lxi. p. 726.

French territory.'[1] Lord Granville, though he thought it useless to offer mediation unless he had reason to believe that it would be acceptable to both parties, undertook to become the intermediary for forwarding a message on the subject to the Prussian headquarters[2] on the 10th of September. He asked Count Bernstorff, the Prussian Minister to London, to ascertain from Count von Bismarck whether he was willing to discuss the possibility of an armistice, and, in that case, to inquire with whom the Count would be prepared to enter into the discussion.[3] Three days later he directed Lord Lyons to send Mr. Malet, one of the second secretaries of the Embassy in Paris, and a man destined to rise high in the diplomatic service, to Count von Bismarck with a copy of the despatch thus addressed to Count Bernstorff.[4]

Count von Bismarck was not particularly anxious for an armistice. He did not wish to arrest the movement of the German armies, which were already investing Metz and which were preparing to invest Paris. He was pleased to say, when he received Lord Granville's message, that there was no hurry to answer this rubbish,[5] and, instead of replying to the question which M. Favre had asked him through Lord Granville, after three days of deliberation, he proposed another: What guarantee was there that France, or even the French army in Metz and Strasburg, would recognise an arrangement made by a purely provincial government in Paris?[6] But

[1] *State Papers*, vol. lxi. p. 730.

[2] *Ibid.*, p. 731.

[3] 'Et avec qui entend-il engager cette conversation.'—*Ibid.*, p. 739.

[4] *Ibid.*, p. 753. For Mr. Malet's adventures on the journey see Sir E. Malet, *Shifting Scenes*, p. 233.

[5] Busch's *Bismarck*, vol. i. p. 174.

[6] *State Papers*, vol. lxi. pp. 748 770.

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while thus gaining time by his action, or inaction, he held out by his language some prospect of negotiation. He told Mr. Malet that if the French Government wished to treat it should send some one to do so,[1] and he assured Lord Lyons that he was ready to enter into negotiation for peace but not for an armistice.[2]

M. Favre was able to give a tolerably satisfactory answer to Count von Bismarck's question. He asked Lord Granville to reply that 'the guarantees justly demanded by the Count can be furnished in a double point of view—political and military. In the political point of view, the Government of National Defence will sign an armistice and will immediately convoke an assembly which will verify the treaty of peace agreed upon between the French and Prussian Governments. In the military point of view, the Government of Defence offers the same security as a regular Government, since all the orders of the Minister of War are obeyed. Whatever should be settled in this respect by armistice would therefore be punctually executed without delay.'[3] But, in fact, there was a plainer answer than that which M. Favre supplied to Count von Bismarck's question. In the *débâcle* which had swept away the Empire there was no doubt that the Government of National Defence was the only authority which in any way represented the country. It followed, therefore,

[1] *State Papers*, vol. lxi. p. 777. His words to Mr. Malet were, 'The despatch you will carry conveys my official reply to Lord Granville's inquiry. But you may repeat what I have said to you. If any one comes, he need have no anxiety as to being properly received.' And Sir E. Malet adds, 'And so it came about that I returned to Paris with a better answer in my head than in my pocket.'—*Shifting Scenes*, p. 265.

[2] *Ibid.*, p. 770.

[3] *Ibid.*, p. 755.

either that Count von Bismarck must negotiate with the Government of National Defence or that he must decline to negotiate at all. Neither opinion in Germany, nor opinion in Europe, would have enabled him to refuse to see M. Favre, and on September 19 M. Favre left Paris and passed through the Prussian lines on his mission.

M. Favre's interview with Count von Bismarck.

In the week or ten days which had been occupied with these preliminary communications a very different man from M. Favre was undertaking a very different mission. Notwithstanding the weight of his increasing years, M. Thiers was induced to proceed on a roving mission to London, Vienna, and St. Petersburg in the interests of peace. He arrived in London on the morning of the 13th September, and at once made an appeal to Lord Granville, which it is difficult even now to read without emotion. Pressed by the Government of France and his Conservative and Liberal friends he had, at great personal inconvenience and with some reluctance, undertaken his present mission. In the first instance he had determined to address himself to this country. She could not wish to see France, that France which for forty years had been her ally, which had fought by her side in the Crimea, which, in times of danger, such as those of mutiny in India, had taken no advantage of her difficulties—she could not wish to see France humiliated or weakened. He did not, indeed, ask for any forcible intervention in the present struggle, but he appealed to England to exert her moral influence to secure the restoration of peace. It could not be for the interest of England that she should abdicate her position as a great power in Europe, and it could not be for her interest that a

M. Thiers' mission.

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dishonourable peace should be patched up, which would leave France irate and irritable, anxiously awaiting some opportunity to recover the prestige which she had lost. And if England—which, although an island and a maritime Power, belonged to Europe—would only take the lead, all neutral nations would follow in her train, and Prussia herself would pause if she saw public opinion in Europe unanimously 'in favour of humanity and the balance of European power.'[1]

Lord Granville dealt to M. Thiers' overtures.

To this passionate appeal Lord Granville replied in the cold words of common sense. He had laboured—so he assured M. Thiers—to prevent the war. He had even gone beyond his strict duty in urging Spain to abandon a candidate for her throne, when she had the right to choose. But the Government of France, notwithstanding, had declared war. Our policy, since the unhappy declaration, had been to preserve a strict neutrality, and to maintain friendly relations with both the combatants. Neutrality, no doubt, might be misunderstood by either of them. The Germans had already told us that it was contrary to our dignity and interest to take no part in the unjustifiable and aggressive war which France had commenced against our advice. M. Thiers was now suggesting

[1] 'Lord Granville said that M. Thiers (after making this speech) had sunk back with his eyes closed; and, leaning over the chair, he could perceive no signs of breathing. Convinced that M. Thiers had died under the excitement and exhaustion of such an undertaking at his age, he got up to call for help; but, feeling how awkward this might be, supposing M. Thiers after all was only asleep, he hesitated, and finally solved the question by poking the fire and knocking down the fireirons with a great clang. M. Thiers woke up quite quietly, and at once continued the conversation as if nothing had happened.'—*Life of Lord Granville*, vol. ii. p. 54.

that our position as a great European power required us to come forward and set Europe an example by offering mediation. For himself Lord Granville believed that it would be as inexpedient for Great Britain to intervene at the present moment, as it would have been unjustifiable for her, two months before, to draw the sword in the interests of Germany. Such mediation would compromise the attitude of neutrality which England had adopted, and would by no means certainly promote the end which it was intended to secure. For the King of Prussia and Count von Bismarck would be much more likely to accept concessions spontaneously made by France herself than to listen to the advice of a neutral, who had taken no part in the difficulties of war.[1]

This cold and correct attitude seemed specially unsympathetic because Lord Granville, though he had instructed Lord Lyons to continue in his post, declined to recognise the Government of National Defence which had been erected on the ruins of the Empire. It would be contrary to precedent—so he argued—to do so; and, though he believed that her Majesty's Government would advise the Queen to acknowledge it so soon as the French nation had formally accepted it, for the present all practical ends would be secured by a continuance of those good relations with the French authorities which his conversation with M. Thiers was the best proof that he was anxious to maintain.[2]

[1] Cf. Lord Granville's two despatches giving an account of his interview with M. Thiers in *State Papers*, vol. lxi. pp. 749, 753.

[2] *State Papers*, vol. lxi. p. 754. The answer seemed the more cold because the United States, Switzerland, Italy, and Spain at once recognised the new Republic. *Ibid.*, p. 794.

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With a heavy heart, therefore, M. Thiers resumed his fruitless journey. If, however, he had failed in securing the main object for which he had struggled, he had ascertained that Lord Granville was anxious to concert that meeting between M. Favre and Count von Bismarck, which he had done so much to promote by sending Mr. Malet to the Prussian head-quarters. In the same week, therefore, in which M. Thiers left London, M. Jules Favre set out on a still more hopeless errand. The circumstances in which he left Paris were specially discouraging. Two days before he had been compelled to send a message to the representatives of foreign powers informing them that 'the French Government expected, from one moment to another, to hear that the enemy had rendered the only railway still open (the Western of France) impassable'; and was forced to acknowledge that the Government 'was no longer in a position to ensure the communications with the world outside Paris.'[1] This intimation had induced the ambassadors to follow those members of the Government who were already moving from Paris to Tours; and it was with this evidence before him of the increased isolation of the capital in which he still elected to remain, and of the tightening grip in which the German armies were enclosing it, that M. Favre set out to seek the Prussian Minister.

The Ambassadors leave Paris.

M. Favre's failure.

It so happened that, when M. Favre reached the Prussian lines, Count von Bismarck was either purposely or unintentionally travelling from Meaux to Ferrières. The interview between the two men was, in consequence, delayed a few hours; and every minute of those hours was still further tightening

[1] *State Papers*, vol. lxi. pp. 775, 776.

the grip in which Paris was held by the German soldiery. But the negotiation, whenever it might have taken place, was foredoomed to failure. For M. Favre came to it with the fixed resolve that France should not cede an inch of her territory, or a stone of her fortresses; and Count von Bismarck had already decided that the great fortifications of 'Metz and Strasburg, with an adequate portion of surrounding territory, must belong to all Germany to serve as a protective barrier against the French.'[1] There was no means of reconciling the conditions on which one Minister was determined to insist, with the concessions which the other Minister was prepared to make. M. Favre, moreover, had persuaded himself that the reason for the war had disappeared with the deposition of Napoleon III., while Count von Bismarck, impressed with the reflection that from the time of Louis XIV. France had lost no opportunity of attacking Germany, was determined so to reduce France in strength that she should in future be powerless for aggression. The exact words used by the two negotiators may be open to doubt. Both of them gave slightly different accounts of what passed between them;[2] and it is quite possible that language which Count von Bismarck intended to be merely grim sounded in M. Favre's ears as needlessly brutal. Both negotiators, however, were practically agreed that in the preliminary interview Count von Bismarck insisted on the cession of the two Departments of the Upper and Lower Rhine, of a portion of the Moselle, of Metz, Château

[1] Busch's *Bismarck*, vol. i. p. 177.

[2] M. Favre's account will be found reprinted in full in *State Papers*, vol. lxi. p. 796; Count von Bismarck's in *ibid.*, p. 816.

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Salins, Soissons, and Strasburg, which he declared more than once to be the Key of the House, or of our house. According to M. Favre, he added, 'We know that we shall have another war with you: we intend to enter on it with all the advantages on our own side.'[1]

At the end of this interview M. Favre might have returned to Paris. On the following day, however, he had two other conversations with Count von Bismarck. On the preceding day he had chiefly discussed the possibility of arranging terms of peace. In the new interview he asked for an armistice, during which France might be consulted on her own future, and might select an Assembly to advise her. But the conditions on which Count von Bismarck was ready to grant an armistice were almost harder than those on which he was ready to make peace. He required—if hostilities were suspended—that Strasburg, Tours, and Phalsburg should be surrendered; and, if the National Assembly which M. Favre wished to be elected should meet in Paris, that a fortress, dominating the capital—such, for instance, as Fort Valérien—should be placed in Prussian hands. If the Assembly should be held at Tours, the latter condition might be waived. But the existence of an armistice elsewhere could not be allowed to relax the circle of iron with which the Germans were surrounding Metz and Paris. In these places the military *status quo* must be maintained, and Strasburg must in any case be surrendered, while its garrison must become prisoners of war.[2]

With a heavy heart, and almost overcome by the

[1] *State Papers*, vol. lxi.; cf. p. 798 and p. 817.

[2] Cf. the two accounts in *ibid.*, pp. 800, 818.

knowledge of his adversary's demands, M. Favre undertook to lay these terms before his colleagues. They were at once rejected: for France was not reduced low enough to part with two of her fairest provinces, and two of her strongest forts. Paris decided to resist to the last extremity. The 'Journal Officiel' even declared that the Departments would march to her help, and that, with the aid of God, France would be saved.[1]

M. Favre's fresh appeal to Lord Granville.

If in its public language the Government of National Defence displayed no unworthy sign of weakness, in its private thoughts it was filled with the bitterness of despair. On returning from Count von Bismarck, M. Favre made an earnest appeal to Lord Granville.[2] In accordance with the advice of foreign powers, he had placed himself in communication with Count von Bismarck. He had been met by demands humiliating both in form and in substance. The desire of Prussia to destroy France was now patent to the world. In these circumstances M. Favre felt that he was entitled to appeal to the rest of Europe for support. The time for their good offices had passed, and the powers should now speak to Prussia in a tone which could not be mistaken, and take measures to ensure their being listened to. But the new appeal to the neutral powers was destined to fail. Mr. Gladstone, indeed, was personally anxious to protest against the transfer of Alsace and Lorraine to Germany without the consent of their inhabitants.[3] But the Cabinet

[1] *State Papers*, vol. lxi. pp. 788, 801, 804.

[2] The despatch was sent out of Paris by balloon, and was received by M. de Chaudordy, who represented M. Favre at Tours, on the morning of the 27th of September. *Ibid.*, p. 792.

[3] M. Favre had raised this point in his interview with Count

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regarded the proposal as inopportune. Instead of adopting it, Lord Granville was suffered, in another chilling despatch on the 4th of October, to remind France that the war had been undertaken by her against the advice of this country; that her Majesty's Government had rigidly adhered to the strictest neutrality; that it had reluctantly come to the conclusion that there was no disposition at the headquarters of the Prussian army to accept the mediation of a neutral power; and that as Prussia could not be expected to surrender 'territory and fortresses which she now occupied in France,' and as M. Favre was determined not to yield an inch of territory or a stone of a fortress, there was an entire absence of a starting-point for negotiation.[1]

It was not surprising that Lord Granville's language created feelings of disappointment in France. In much warmer terms Count Beust was telling M. Thiers, at Vienna, that the Austrian Government had already suggested joint mediation both in St. Petersburg and in London, and that it would gladly join in any effort which Russia might initiate to put an end to the war,[2] while a little later M. Thiers was reporting that public opinion at St. Petersburg was alarmed at the progress of

von Bismarck: 'Je lui ai fait observer que l'assentiment des peuples dont il disposait ainsi était plus que douteux, et que le droit publie européen ne lui permettrait pas de s'en passer. "Si fait," m'a-t-il répondu. "Je sais fort bien qu'ils ne veulent pas de nous. Ils nous imposeront une rude corvée: mais nous ne pouvons pas ne pas les prendre."' *Ibid.*, p. 798; for Mr. Gladstone's view, Morley's *Life of Gladstone*, vol. ii. p. 346.

[1] *State Papers*, vol. lxi. p. 808. Lord Granville's despatch was parodied in *Dame Europa's School*, the popular pamphlet of 1871, in John's remark to Louis: 'What can I do?' says John; 'I have no power; besides, you began.'

[2] *Ibid.*, p. 811.

Prussia, and that both the Czar and his Minister had declared to him that they would never give their sanction to conditions which were not equitable.[1] It was true, indeed, that the Emperor's language was not followed by any active measures. 'They did not withdraw their prohibition against Austria's moving—they did not move themselves: they did not give any effectual advice to Prussia.'[2] The three great powers of Europe seemed determined not to raise a finger to avert the fate which was impending over France, and France, abandoned by the Cabinets of Europe, turned to Italy and asked for help.[3]

The fresh disasters of France.

Bad as the military position of France had already proved, her difficulties were steadily increasing. Towards the end of September the great fortress of Strasburg was formally surrendered to the Germans. In the first half of October Orleans was captured by the enemy. The garrison at Metz made repeated but fruitless efforts to break the chain of iron with which it was encircled. The garrison of Paris was no more successful in its attempts to defeat the investment of the capital. The energy of the Government—and M. Gambetta, escaping from Paris in a balloon, threw the whole energy of his fiery nature into the task—seemed as incapable as the courage of the soldiery to avert the inevitable end. The fall of Metz might possibly be deferred for some weeks; the defence of Paris might conceivably be extended over some months; but whether it came slow or whether it came fast, the complete defeat of France seemed assured.

[1] *State Papers*, vol. lxi. p. 820.
[2] See M. Chaudordy's language to Lord Lyons, *ibid.*, p. 821.
[3] *Ibid.*, p. 860.

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The man, indeed, whose resolution had continued the war, and whose iron will was pushing it to its ultimate conclusion, was not prepared to wait for the slow process of famine to compel the surrender of Paris. In Count von Bismarck's opinion the siege of Paris was a mistake. He thought that it would have been wiser to have followed up the retreating French armies, or broken up the new levies in the provinces.[1] But, if Paris was to be attacked, he insisted that it should have been bombarded or stormed at once, and that time should not have been wasted by its regular investment. Count von Bismarck was not in the habit of concealing his opinions. The news of impending bombardment was circulated throughout Europe, and, perhaps, aroused a truer sympathy for the French in their misfortune than had been excited by the defeats and hardships to which she had been already exposed. For the ordinary civilian is, unhappily, incapable of appreciating the horrors of a battlefield, or the ruin which almost necessarily follows the march of armies. But the ordinary civilian knew that Paris was a city of pleasure; that it contained, within its girdle of forts, much that was beautiful both in architecture and art. He thought it intolerable that the treasures which were collected in the Louvre should be exposed to possible destruction from bombardment, and that masterpieces which could not be replaced, and which were the heritage of man, should be sacrificed to the necessities of war. The risks to which the pictures of the Louvre were subject came home to men who were incapable of appreciating the sufferings of a million of human beings slowly starving

The effect on opinion of the threatened bombardment of Paris.

[1] Busch's *Bismarck*, vol. i. pp. 286, 320.

in a beleaguered city. And it might almost have been said of the whole English people—as it was said of the great statesman of the eighteenth century—that in pitying the plumage they forgot the dying bird. The protests, however, which were everywhere made against the bombardment, the sympathy which the Queen herself felt for the French people, combined with the knowledge that Austria was counselling the collective mediation of the neutral powers, and that Russia was declaring that she would never give her sanction to any conditions of peace that were not equitable,[1] induced Lord Granville to reconsider his policy of strict non-intervention. On the 20th of October Lord Granville was authorised by the Cabinet to urge on the Government of National Defence the importance of renewing the application for an armistice and the paramount necessity for moderation. On the same day he addressed a despatch to the British Minister at Berlin, in which, after citing Count von Bismarck's authority for asserting that the prolongation of the struggle before Paris would inevitably result in the death of hundreds of thousands of non-combatants from starvation,[2] he went on to argue that 'the probability of a fresh and irreconcilable war must be greatly increased if a generation of Frenchmen behold the spectacle of the destruction of a capital, a spectacle associated with the deaths of large numbers of helpless and

Lord Granville constrained to make an effort for arranging an armistice.

[1] *State Papers*, vol. lxi. p. 820, and cf. p. 908. Count Beust wrote, on the 28th of September, after his interview with M. Thiers: 'Les idées de M. Thiers au sujet d'une médiation éventuelle répondaient tout à fait aux nôtres. Nous avions déjà suggéré aussi bien à Londres qu'à St.-Pétersbourg l'opportunité d'une médiation collective.' *Ibid.*, p. 811.

[2] The Prussian Memorandum, in which this was stated, was telegraphed from Berlin to the *Times* on the 10th of October. See the *Times*, 11th of October, 1870.

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unarmed persons, and the destruction of treasures of art, science, and historical association of inestimable value and incapable of being replaced.' In these circumstances Her Majesty's Government could 'no longer remain silent or leave anything untried which may have a tendency to avert such a fearful and unexampled catastrophe.' And Lord Granville accordingly instructed Lord A. Loftus to urge that the glory which the Germans had already acquired would be increased if it could 'be truly said in history that the King of Prussia had exhausted every attempt for peace before the orders for the attack on Paris were given, and that the conditions of peace were just, moderate, and in accordance with true policy and the sentiments of the age.'[1]

The language which Lord Granville thus held was not wholly consistent with the colder words which he had previously used; but the change of attitude was justified and necessitated by the increasing sympathy which was being expressed for France, not only at St. Petersburg and Vienna, but also in this country. Lord Granville's advice, indeed, was not altogether welcome either at Tours or at Versailles. The Government of National Defence, on the one hand, was not much inclined, 'after the reception which M. Favre's overtures had met with,' to commit France to a new negotiation.[2] Count von Bismarck, on the other hand, was not anxious to arrest the progress of the German army, or to give France the opportunity of organising further resistance. But the growing feeling of Europe was not without effect on Count von Bismarck's attitude; the

[1] *State Papers*, vol. lxi. pp. 867-870.

[2] *Ibid.*, p. 881.

stern reality of existing facts could not be ignored either at Paris or at Tours. M. Thiers, who had just returned from his roving commission, expressed a strong desire that he should personally communicate with the authorities in Paris. And Lord Granville, on the 23rd of October, was induced to ask the Prussian Minister to allow M. Thiers to enter Paris, and, after communicating with M. Favre, to open a new negotiation with Count von Bismarck himself.[1]

M. Thiers at the Prussian head-quarters.

This proposal Count von Bismarck accepted[2]; and on the 30th of October M. Thiers passed through the German lines to Paris.[3] The French were often unfortunate in their negotiations during the war. Misfortune clung to them on this occasion. It was by the arrival of M. Thiers that the population of Paris heard that Metz had fallen; and this new and crushing disaster shook the constancy of a fickle people. Riots ensued in Paris; and, when riots arise, reason is usually powerless. Whatever blame might attach to other people, the Government of National Defence was at any rate free from blame. Yet the mob vented their anger on the Government, and even temporarily imprisoned it in the Hôtel de Ville. A serious riot of this kind, throwing discredit on the only authority representing France, did not tend to facilitate M. Thiers' chance of success. On one point, indeed, there was virtually an agreement. M. Thiers was anxious to obtain, Count von Bismarck was ready to grant, the armistice, which the four neutral powers in St. Petersburg, Vienna,

[1] *State Papers*, vol. lxi. p. 882, and cf. p. 894.

[2] *Ibid.*, p. 887.

[3] Busch's *Bismarck*, vol. i. p. 274.

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Florence, and London were suggesting,[1] 'with a view to the convocation of a constituent Assembly in France, and to eventual peace.'

If, however, Count von Bismarck, influenced possibly by the attitude of the neutral powers, was ready to accept the principle of an armistice, in order that France might have the opportunity of pronouncing her own destiny; if he even consented to allow the provinces occupied by the German armies to send representatives to the Assembly which it was agreed should be convoked: insuperable difficulties arose on the question of revictualling Paris during the duration of the armistice. On this point, indeed, M. Thiers used arguments which it is difficult to answer, and displayed a moderation which it is unnecessary to praise. The victualling of a besieged place, he argued, followed as a right on a suspension of hostilities; for if a beleaguered city was not suffered to receive supplies, an armistice would be sufficient to subdue the strongest place in the world. But, if usage and justice alike demanded that Paris should receive supplies, M. Thiers declared that he was ready for a friendly discussion as to the amount which she should obtain.[2] Count von Bismarck, however, never entered into these details. Military men—so he told M. Thiers—advised him that any armistice would be opposed to the interests of Prussia, that a month's delay would give the armies of France time for the organisation which they required; and that a reprovisioned Paris would

[1] *State Papers*, vol. lxi. p. 904.

[2] 'Quant aux quantités elles-mêmes, je lui avais journellement déclaré qu'elles servaient un objet de discussion aimable, et même de concessions importantes de notre part.' *State Papers*, vol. lxi. p. 945.

be encouraged to prolong its resistance indefinitely. And that, if France, by the grant of an armistice, was to be given such advantages, she must be prepared to make corresponding sacrifices. Paris must, in short, be prepared to surrender one or more of her fortresses as the price of the breathing-space which she needed, and of the food which she required. But this demand was one which M. Thiers obviously could not accept. 'You are demanding Paris itself,' he replied at once, somewhat rhetorically. 'For to refuse its revictualment is to shorten its powers of resistance by a month; to insist on the surrender of a fortress is to require that you should be put in possession of the walls. But the Paris which you thus demand is at once our strength and our hope: the obstacle which you have been unable to overcome after a siege already protracted over more than fifty days.'[1]

The negotiations broken off.

As neither Count von Bismarck nor M. Thiers was prepared to give way on this point, the negotiations came necessarily to an end on the 6th of November; and the unhappy war was suffered to continue. The conditions under which the struggle was renewed were even more hopeless than those in which Lord Granville had ventured on suggesting negotiations. For, on the 27th of October, Metz fell. Its huge army of nearly 180,000 men, at once the strength and weakness of the garrison—became prisoners of war; and the German troops who had been hitherto engaged in the task of investing the city became free to extend the

[1] *State Papers*, vol. lxi. p. 946. Busch, in his *Bismarck*, vol. i. p. 300, gives the exact amount of supplies which M. Thiers required for the support of Paris during the twenty-five days' armistice.

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operations of the German arms, and to withstand any attempt to raise the siege of Paris.[1]

The great success at Metz, completing as it did the surrender of the whole of the army with which France had begun the war, probably strengthened Count von Bismarck's determination to do nothing which could in any way strengthen the resistance of France. But another fact, of which he must have been conscious on the 6th of November, must have had its weight upon him. He had entered into the new negotiations with M. Thiers with the knowledge that the four neutral powers were combining to suggest an armistice and the early end of the struggle. He broke it off with the knowledge that two of the three great powers, mainly through his influence, had been suddenly involved in a controversy which seemed likely to lead, in no impossible eventuality, to a new war between Russia and Great Britain.

Count von Bismarck and Russia.

The danger which thus arose had undoubtedly been foreseen by Count von Bismarck from the first. Amidst the surprising successes which were rewarding his strenuous action he had not overlooked the possibility of complications which might interfere with the progress of German arms. He was aware that it might not suit either Austria or Italy to stand idly by watching the prostration of

[1] I have not thought it necessary in the text to allude to the obscure proceedings of M. Regnier, who obtained admittance to Metz on the 27th of September with a pass signed by Count von Bismarck, and who professed to be the bearer of secret instructions from the Empress desiring that either Marshal Canrobert or General Bourbaki should be sent to her. It seems quite clear that the Empress herself had nothing to do with, and had no knowledge of, this singular negotiation. See an account of it in *State Papers*, vol. lxi. p. 846. See, for the Empress's correct conduct on a similar intrigue later on, *ibid.*, p. 886.

France and the predominance of Prussia. Fairly as Lord Granville had behaved since the beginning of the war,[1] he could not help perceiving that the trend of opinion in England was making for intervention; in Russia, the language of the Czar was displaying an increasing sympathy for the French, while Prince Gortchakoff was known to like France almost as much as he disliked Count von Bismarck. From the very outset of the war, Count von Bismarck had felt some nervous apprehension of the possible intervention of these powers. He had made it his special object to secure the abstention of both Russia and this country from interference in the war; and the easiest method of preventing Russian and British intervention in German affairs was to embroil them with each other. With the help of the Russian military plenipotentiary,[2] Count Kutusoff, he prevailed over Prince Gortchakoff's hesitation, and induced the Russian Court to raise the question of the neutrality of the Black Sea. On the last day of October, four days after the capitulation of Metz, six days before the final breach with M. Thiers—the student must watch even the minute hand in its passage over the face of the European dial if

[1] In an article, inspired by Count von Bismarck, which was prepared but not published, Busch was instructed to say: 'It is as clear that the action of Count Beust is guided by hostile intentions towards us as that Lord Granville's attitude is based on goodwill.' *Bismarck: Some Secret Pages of his History*, vol. i. p. 279. This opinion, however, did not prevent him from allowing the Prussian Minister to declare in a correspondence (on the subject of the export of arms to France) that Germany had a right to expect that 'the neutrality of Great Britain, however strict in form, would at least be benevolent in spirit.' *State Papers*, vol. lxi. p. 714 and cf. for Lord Granville's reply and later correspondence *ibid.*, pp. 759, 824, 870. And it did not prevent him from urging Russia to tear up the treaties of 1856.

[2] I have given Count Kutusoff the title which Prince Bismarck applies to him. *Reflections and Reminiscences*, vol. ii. p. 114.

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he wishes thoroughly to understand Count von Bismarck's methods—Prince Gortchakoff fired the bomb-shell which created almost as much sensation as the Hohenzollern candidature for the Spanish throne.

Prince Gortchakoff denounces the Treaty of 1856.

The shell which Prince Gortchakoff thus fired, at Count von Bismarck's instigation, had unfortunately been prepared by English hands; and the humiliation which England was destined to experience in the autumn of 1870, though directly caused by Prince Gortchakoff's action, was indirectly the fruit of Lord Palmerston's policy. In the settlement which had been made at the end of the Crimean war, Lord Palmerston had throughout insisted on the neutrality of the Black Sea. The negotiations at Vienna, in the summer of 1855, had practically been interrupted by the reluctance of Russia to assent to the demands which the allies had formulated with this object; and it had required the sacrifices and losses of another nine months of warfare to induce Russia to yield to conditions which she had no longer the power to resist. By the 11th and 14th Articles of the Treaty of Paris, ships of war of every nation, except a few light vessels[1] to be maintained for purposes of police (*au service de leurs côtes*), were thenceforward excluded from the sea; and, in order to give additional force to the arrangement, words were added, which only expressed what the articles necessarily implied, that 'this provision could not be annulled or modified

[1] *State Papers*, vol. xlvi. pp. 12, 13. The number and size of these light vessels was decided in a Convention between Russia and Turkey. *Ibid.*, p. 22, which, however, was expressly cited in the 14th Article of the Treaty.

without the assent of the powers signing the present treaty.'

Something, perhaps, might have been said for this provision if the Minister who insisted on it had seen his way to enforce it. But the strange thing is that Lord Palmerston himself knew that it could not permanently endure. 'These are stipulations,' so he said, 'which you cannot expect will last long'; and he added, that he hoped that they would last his time: they would last ten years.[1] It is almost incredible that any Minister should have prolonged a war for the sake of an arrangement which he himself thought would be got rid of in a dozen years. Lord Clarendon, moreover, who held the seals of the Foreign Office under Lord Palmerston attached no value to the stipulation.[2] Yet these men deliberately insisted on a provision which one of them thought useless at the time, while the other did not expect it to endure. Lord Palmerston, in the last years of his life, tarnished the reputation of his country by his unnecessary declaration that if Denmark were attacked, she would not be left without support; but he prepared for her, after his death, a still greater humiliation by insisting on a stipulation which he knew she would be powerless to maintain permanently.

That knowledge could, in fact, have been gained by any one who took the trouble to examine the map of Russia. That great and growing empire,

[1] Morley's *Life of Gladstone*, vol. ii. p. 349. It may be added that both Lord Aberdeen and Mr. Gladstone were strongly opposed to the arrangement, and foresaw that Russia would disregard it on the first opportunity, and that we should acquiesce in her doing so. *Life of Sidney Herbert*, vol. ii. p. 23.

[2] See Mr. Gladstone's speech in *Hansard*, vol. cciv. pp. 104, 105.

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which covers a larger continuous tract of the earth's surface than any other state, has no outlets to the open sea. To the north it is fringed by a frozen ocean. The Baltic, which communicates with the Russian capital, is controlled by the narrow straits that separate Sweden from Denmark. The Black Sea, which washes Russia's European territory on the south, is closed by the still narrower straits which divide Europe from Asia. In 1856 she had no immediate prospect of reaching the Indian Ocean or the warm waters of the Pacific. Her material interest, her strategical necessities, impelled her to move towards the sea; and the Treaty of Paris imposed a limit on her advance, or, at any rate, on her military predominance in the Euxine, to which it was impossible that she could submit. It required no great perspicacity to foresee that, when a fitting opportunity arose, no treaty could restrain her from taking measures for the protection of her trade and the assertion of her authority. For these are forces in international politics which no treaties, no engagements, can restrain. The statesman may, perhaps, occasionally hope to direct the march of a nation as the engineer may divert the course of a river. But the former can no more prevent the progress of a great people than the latter can arrest the sweep of a flood. The engineer who attempts to do so prepares a disaster; the statesman who strives to do so paves the way for the ruin of his own policy.

There are good grounds for saying that the stipulation, which involved an additional nine months of war, was in some danger of perishing within three years of its conclusion. For in the summer of 1858, when the Emperor Napoleon was contemplating the

attack upon Austria which was to lead to the Italian war of 1859, he already foresaw that, in the coming contest, it was his interest to secure the neutrality of Prussia and the goodwill of Russia. The time had, in fact, come when it was necessary to bid high for Russian support. If M. Ollivier is correctly informed, Prince Napoleon, in the mission which he undertook in the autumn of 1858, suggested to the Czar that if war broke out Russia should station an army on the Galician frontier; that she should recognise any conquests which the French might make in the direction of Italy; and that, in return for these concessions, France should agree to give up the Black Sea clause.[1] Whether M. Ollivier was right or wrong on this subject, it seems certain that 'in 1859 the Austrian, French, and Prussian Governments were encouraging Russia to find a means of escaping from the stipulations of the treaty,'[2] and that Count Beust, writing in 1870, declared that he had never made a secret of his conviction that the Treaties of 1856 had placed Russia in a position unworthy of a great power, and that he had 'lost no opportunity of inducing the other guaranteeing powers to share this conviction.'[3]

Thus the famous clause, which had saddled this country with the losses inseparable from nine months of warfare, was nearly sacrificed by Napoleon III. within two and a half years of its conclusion. The clause, moreover, which the Emperor of the French was ready to abandon had never commended itself to the statesmen of other countries. Count

[1] Ollivier, *L'Empire Libéral*, vol. iii. p. 502

[2] Sir H. Elliot in *Parl. Papers*, 1871, vol. lxxii. p. 53.

[3] *Ibid.*, p. 21.

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von Bismarck, in particular, had seen clearly that it was impossible to 'permanently deny the exercise of the natural rights of sovereignty on its own coasts to a nation of a hundred millions of men'; and, so thinking, he not unnaturally described the conclusion of the Peace of Paris, which denied these rights, as most inept.[1] If, indeed, he had held the position in Russia which he occupied in Germany, he would have disregarded the provision from the first. He would have set to work to build ships of war in the Black Sea, and waited for other nations to question him on the subject. When the inquiries came, he would have replied that he knew nothing about it, but that he would take steps to ascertain the facts, and so would have let the matter drag on. That sort of diplomatic correspondence, suspended from time to time for the purpose of full inquiry, might be protracted over a lengthened period; and, in the meanwhile, the ships would be building and the parties to the Treaty of Paris would become accustomed to its infraction.[2]

For Count von Bismarck's immediate purposes, however, it was too late to induce Russia to adopt a cynical policy of this kind. It was his object to divert the attention of the Czar from the sufferings of the French people and to engage him in some enterprise which would occupy his whole mind; and it was also his object that Russia's enterprise should be opposed to British interests, or at any rate to British opinion; and that England, occupied with a fresh danger in Eastern Europe, should find herself

[1] *Bismarck: Reflections and Reminiscences*, vol. ii. p. 114.

[2] See Count von Bismarck's own account in Busch's *Bismarck: Some Secret Pages of his History*, vol. i. p. 313.

paralysed in the West. Thanks to Lord Palmerston's policy, the means of doing this was already prepared. The thing itself was accomplished when Prince Gortchakoff, writing to Baron Brunnow, the Russian Minister in London, declared that the time had come when the Czar 'deemed himself both entitled and obliged to denounce to his Majesty the Sultan the convention which fixes the number and size of the vessels of war which the two powers bordering on that sea shall keep in the sea.'[1]

In making this abrupt communication Prince Gortchakoff was pleased to argue that the successive alterations in the balance of power had made it necessary for Russia to inquire how far their results had affected her political position, since the Treaty of 1856 had not 'escaped the modifications to which most European transactions have been exposed.' The principalities of Moldavia and Wallachia had accomplished 'a series of revolutions which had led to their union under a foreign prince, with the sanction of the Porte and the consent of the great powers.' This, however, was not the only infraction of the treaty. Foreign men-of-war, under various pretexts, had been suffered to enter the Bosphorus, and the introduction of ironclad vessels, unknown and unforeseen at the conclusion of the Treaty of 1856, had increased the patent inequality of the naval forces of Russia and other powers. In this state of things the Czar, he said, could no longer admit, *de jure*, that treaties violated in several clauses should remain binding in other clauses directly affecting the interests of his empire, or, *de facto*, that the security of Russia should depend on a

[1] *Parl. Papers*, 1871, vol. lxxii. p. 4.

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fiction which had not stood the test of time. Prince Gortchakoff was good enough to add that the Czar had 'no wish to revive the Eastern Question,' or had any wish except the preservation and consolidation of peace. He was even ready to enter into an understanding with the powers which had signed the Treaty of Paris, with a view to its reconsideration, but he was convinced that peace itself would be more fully assured if it were based upon some other foundation than one which Russia could not accept as a normal condition of her existence.[1]

The reception of the Russian despatch.

Few diplomatic documents have ever made, or were ever calculated to make, so profound an impression. The arguments on which Prince Gortchakoff relied for tearing up an important treaty could have hardly deceived himself. True that the unwise arrangements respecting Moldavia and Wallachia had been modified, but they had been modified by the powers which had signed the treaty, after years of deliberation and correspondence. True also that, on nine separate occasions, corvettes or vessels of war of foreign nations had been allowed by the Sultan to pass up the Bosphorus, in opposition to the strict terms of the Treaty of Paris. Out of these nine infractions of the treaty, the case on which Russia chiefly relied was the passage through the Bosphorus of the Gannet—a small British ship of war employed to carry the British Ambassador, Sir Henry Bulwer, to Kustendji in 1868. As, however, in the same year, a Russian ship of war had been allowed to pass through the Straits with a Russian Grand Duke on his way to a cruise in the Mediterranean, the one infraction of the treaty might

[1] *Parl. Papers*, 1871, vol. lxxii. pp. 1–4.

fairly be set against the other.[1] But, of course, the arguments in Prince Gortchakoff's despatch were mere pretexts for doing what the Franco-German war enabled him safely to do. A nation in the hour of its defeat may be compelled to accept terms which it is unable to resist; but a nation with any faith in its own fortunes will accept them with the intention of repudiating them at the first convenient opportunity. For if an oath imposed on an individual under threat of death has neither legal nor moral force, an obligation imposed on a nation which has been brought to its knees cannot be held to endure when its reviving power enables it to repudiate the terms which disaster had compelled it to accept.

Undoubtedly the action of Russia would have justified any of the powers which had signed the Treaty of 1856 in upholding its terms by force of arms. But Russia could not have had any very serious apprehensions on this subject. Germany, even in 1856, had adopted the Russian view, and was herself—as Russian statesmen knew—urging on Russia the course she was taking. France had made an intimation to the very same effect soon after the conclusion of the treaty. Later on, Austria had taken the same course. Italy had done the same, though not in so decided a manner.[2] It was hardly reasonable to expect that either Austria or Italy would be disposed to declare war for the sake of

[1] The whole of these cases are set out in *Parl. Papers*, 1871, vol. lxxii. p. 9. The importance which the Russians attached to the case of the Gannet will be seen in *ibid.*, p. 59. The actual article of the Treaty regulating the entrance of such vessels will be found in *Parl. Papers*, 1878, Turkey, No. 16, p. 50.

[2] See Lord Granville's letter to Mr. Gladstone in Morley's *Gladstone*, vol. iii. p. 350.

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enforcing a provision which both had from the first regarded as unwise. It was plain, therefore, that Russia had to reckon only with this country; and in this country few public men of great eminence attached much importance to the provision on which Lord Palmerston had staked so much.

The difficulty in England aggravated by the dispute with America.

If opinion in England was hardly prepared to enforce in 1870 the arrangements on which Lord Palmerston had insisted in 1856, other considerations, wholly unconnected with the Black Sea, strongly suggested a policy of peace. For the conclusion of the Civil War in America had been followed by a sharp controversy between this country and the United States. The statesmen of the great transatlantic republic had never ceased to assert that the British Government must be held responsible for the losses which their own fellow-citizens had sustained through the depredations of the 'Alabama.' Lord Russell had, in the first instance, met this contention by declaring that the United Kingdom could not be held responsible for the acts of parties who fit out a seeming merchant ship, send her to a port or waters far from the jurisdiction of British Courts, and then commission, equip, and man her as a vessel of war.[1] But this argument, though it received some support from the laws which Congress had itself made to ensure the neutrality of American citizens,[2] was open to the obvious retort that Lord Russell had ordered at the eleventh hour the arrest of the Alabama, and that his action in doing so had shown decisively that, in his opinion, the law

[1] See *Parl. Papers*, 1864, North America, Pt. i. pp. 26, 42, 43; and *ibid.*, Pt. iii. p. 18.

[2] See Lord Russell's despatch reprinted in *Speeches and Despatches*, vol. vi. p. 491.

of England did allow the arrest of a vessel in the conditions in which the Alabama had sailed.

The origin of the dispute.

Looking back, in fact, at the details of this controversy over an interval of forty or fifty years, it is possible to detect some exaggeration in the claim of the United States, and some defects in the English reply to it. For American statesmen at that time rested their complaint on what they were pleased to call the premature recognition of the Confederate States as belligerents. Mr. Seward had declared, for example, that 'before the Queen's proclamation of neutrality, the disturbance in the United States was merely a local insurrection. It wanted the name of war to enable it to be a civil war and live.'[1] According, therefore, to American statesmen, the action, the unfriendly action, of this country had converted a local disturbance into a civil war, and had saddled the United States with the whole cost of carrying on the war to a victorious conclusion. But the Queen's proclamation, conceding belligerent rights to the South, was approved by Mr. Forster—perhaps the warmest friend of the North in this country—and could not, therefore, be justly considered as 'unfriendly.'[2] And, indeed, the proclamation merely recognised a fact which the Americans themselves were forced to acknowledge six weeks later on.[3] Nor is it the case that the proclamation had any effect in prolonging the war. A distinguished

[1] See *Lee at Appomattox* and other papers by C. F. Adams, p. 101. Mr. Adams's paper on the Treaty of Washington in this volume deserves the careful study of any one who wishes to understand the strong and weak points of the American case.

[2] Wemyss Reid, *Life of Forster* p. 329. Mr. Forster appears to have regarded the proclamation as a point gained for the North *ibid.*, p. 186.

[3] *Ante*, vol. ii. p. 42.

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American, the son of the American statesman who represented the United States in this country during the Civil War, has himself declared that the 'evidence is all the other way,'[1] and the most capable exponent of the modern history of the United States in the nineteenth century has recorded the same opinion, and has justified the issue of the proclamation on which Mr. Seward rested so much of his case.[2]

But if the large, or even preposterous claim, which American statesmen founded on the Queen's proclamation could not be justified, much more could be said for the claim which they simultaneously made for repayment of the losses which citizens of the United States had sustained from the depredations of the Alabama. It was almost as difficult to defend the conduct of the British Government in one case as it was to accept the demands of the United States Ministry in the other. Lord Russell, indeed, conscious that he had acted throughout on legal advice, and that his action had been fully endorsed by the Courts, denied that the American Government had any claim for redress. All that the Government could be required to do was to carry out its own laws; and there was nothing in those laws to prevent the building of a vessel for a foreign belligerent, provided that she was neither armed nor equipped for war when she left this country. But this reasoning plainly went too far. For, if Lord Russell was right in contending that he had nothing to do but to carry out the law, he might, presumably, have refrained from ordering the detention of the Alabama, or from advising the Government to pur-

[1] C. F. Adams, *Lee at Appomattox* and other papers, p. 99.

[2] Rhodes, *Hist. of the United States*, vol. iii. p. 420 and note.

chase the Rams. In fact, it was impossible to escape from this dilemma. The Alabama either should or should not have been detained. If she should not have been detained, Lord John should not have ordered her detention. If she should have been detained, he should have prevented her escape. In one case he must have exceeded his powers, in the other case he must have been negligent in the use of them.[1]

The truth is that the circumstances in which the Civil War was being fought, and the whole atmosphere of the nineteenth century, were affecting the views which had been previously held on the duties of neutral States to belligerents. It was no longer possible to contend that a neutral was discharging its duty by carrying out the provisions of its own municipal law. For its municipal law might —nay, the technical adviser of the Government and the judges of its courts were maintaining that it did—allow vessels 'built and equipped in a British port, manned by British seamen, with the English flag flying, to go forth to cruise from an English port against the commerce of allies.'[2] If this was

[1] In the case of the Alexandra, the Lord Chief Baron (Sir F. Pollock), in charging the jury, said that the Foreign Enlistment Act was not designed for the protection of belligerent Powers, or to prevent Great Britain being made the base of naval operations directed against nations with which this country was at peace. The purpose of the Act was solely to prevent hostile naval encounters within British waters. See the Judgment, *Times*, 23rd of June, 1863, and cf. Adams, *Lee at Appomattox*, &c., p. 61. It should be recollected that the Alexandra had been stopped before this judgment, and that she was not allowed to sail after it. Cf. Rhodes's *History of the United States*, vol. iv. p. 371.

[2] The words are Mr. Goldwin Smith's at a meeting at Oxford, and are quoted by Rhodes, *History of the United States*, vol. iv. p. 370, note, from the *Daily News* of the 8th of April, 1863. But Lord Palmerston, speaking on the 27th of March, 1863, said: 'My hon. and learned friend, the Solicitor-General, in that admirable speech, which we all listened to with the greatest delight, has

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the law, it followed that a belligerent with no port of her own, with no means at her disposal for building a ship, might furnish herself with a formidable navy and sweep her antagonist from the seas. If this was really the law, then Great Britain herself —the chief sea-carrier of the world—on some future occasion might suffer almost irretrievable damage from it. But, apart from the interests of this country, public opinion was gradually arriving —and Lord Russell by his action was showing that he had already arrived—at the conclusion that something more than this was due from a neutral to a belligerent. If the municipal laws of a country enabled its shipbuilders and its merchants to infringe the neutrality which their own Government was professing to observe, the time had come when the laws themselves should be strengthened. It could not be right that a ship should be despatched from one port, its armament from another, and that it should be then permitted to commence a career of rapine and conquest.

Lord Stanley's effort to settle the dispute.

During the months which immediately succeeded the conclusion of the Civil War, and in which Lord Russell continued to hold office either as Foreign Secretary or as Prime Minister, no serious step was taken to settle the dispute. Lord Russell's attitude

demonstrated indisputably that the Americans have no cause of complaint against us. When a vessel is seized unjustly, and without good grounds, there is a process of law to come afterwards, and the Government may be condemned in heavy costs and damages. Why are we to undertake an illegal measure which may lead to these consequences simply to please the agent of a foreign Government? I have myself grave doubts whether, if we had seized the Alabama, we should not have been liable to considerable damages.' — *Hansard*, vol. clxx. p. 92. The amazing thing is that Lord Palmerston used this language eight months after the detention of the Alabama had been ordered and twelve days before the Alexandra was detained.

made its settlement impracticable, for he continued to maintain that throughout the struggle this country had complied with all the conditions of neutrality.[1] But in August 1866, after the fall of Lord Russell's second Ministry, the Government of the United States again reverted to this difficult subject. It embodied, in one document, the claims which it had received from citizens of the United States for compensation for the losses inflicted on them through the capture of their vessels by Confederate cruisers, and which amounted in the aggregate to many millions of pounds. The justice of these claims, so Mr. Seward thought fit to affirm, was 'sustained by the universal sentiment of the people of the United States'; and he argued that her Majesty's Government could not 'reasonably expect that the Government of the United States would consent to forego their prosecution to some reasonable and satisfactory conclusion.'[2] It fell to Lord Stanley, who had just assumed the seals of the Foreign Office in his father's third Administration, to reply to Mr. Seward. In a firm and temperate despatch he vindicated the policy which Lord Russell had pursued during the Civil War; he defended the course which Lord Russell had taken in dealing with the Alabama and other vessels; and he refused to abandon the position which Lord Russell had assumed by admitting 'the liability of this country for the claims then and now

[1] Lord Clarendon, in December 1865, speaking as Foreign Secretary, told Mr. Adams that the neutrality of the country 'had been perfectly kept.' Adams, *Lee at Appomattox*, p. 88, cf. p. 81. It is clear that both Lord Russell, in August 1865, and Lord Clarendon, in December 1865, were in favour of referring both the claims arising out of the Civil War, and the points of international law which the Civil War had incidentally raised, to some joint commission. See *ibid.*, pp. 85, 89.

[2] *Parl. Papers*, 1867, North America, No. 1, pp. 1, 3.

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put forward.' But on the other hand, so he added,[1] Ministers were 'fully alive to the inconveniences which arise from the existence of unsettled claims of this character between two peaceful and friendly Governments; they would be glad to settle the question if they can do so consistently with justice and natural self-respect; and with this view they will not be disinclined to adopt the principle of arbitration, provided that a fitting arbitrator can be found, and that an agreement can be come to on the points to which arbitration should apply.' As, however, Mr. Seward, throughout the controversy, had laid stress on the premature recognition by England of the Confederate States as a belligerent Power, Lord Stanley expressly declared that this act, which bore very remotely on the claims, was one which could by no possibility be referred to an arbitrator, since every State must be held to be the judge of its own duty. In a second despatch, Lord Stanley hinted that, as there might conceivably be other claims arising out of the war which America might prefer, and as there were undoubtedly numerous British claims also arising out of the struggle, it seemed desirable that all such matters should be inquired into and adjusted at the same time.[2]

These despatches undoubtedly placed the controversy on a new basis. On behalf of the British Government, Lord Stanley had formally offered to refer to a competent umpire the decision of its

[1] *Parl. Papers*, 1867, North America, No. 1, p. 30.

[2] *Ibid.*, p. 31. The war had naturally produced a crop of claims from (*e.g.*) owners of British vessels seized by American cruisers. For an example of such a claim see the case of the Dolphin in *Hansard*, vol. clxx. p. 560, and cf. *ibid.*, vol. clxxiii. p. 619, and for the case of the Chesapeake, *ibid.*, p. 830.

liability for the losses which the United States had sustained through the depredations of the Alabama and other vessels. The old contention on which Lord Russell had persistently relied, that this country could not be liable because the Alabama, at the time of her escape, was unarmed, was quietly surrendered. As, however, in the months which followed, Mr. Seward, while professing himself ready to accept the 'remedy of arbitration,' insisted that the whole case should go to the arbiter just as it was found in the correspondence which had taken place between the two Governments; as the demand implied that the arbitrator should have power to express an opinion on Lord Russell's conduct in recognising the Confederates as belligerents; and as Lord Stanley adhered to his opinion that he could not consent to 'such an extensive and unlimited reference,' the remaining months of 1866, and the whole of 1867, passed away without any appreciable alteration in the position of the controversy.[1]

Early in 1868, however, a new effort was made to settle the differences between the two countries. Mr. Seward by that time had discovered that other questions, which it was desirable to arrange, were awaiting settlement. Among these were the position and rights of naturalised citizens in the two countries; the exact channel which formed the boundary between the territories of the United States and Vancouver Island; and the rights of fishermen of either country on the coasts of Newfoundland. Mr. Seward suggested that these questions, as well as the Alabama claims, might be

[1] *Parl. Papers*, 1869, North America, No. 2, and ditto, 1868, North America, No. 1.

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discussed at a conference.[1] It so happened that a change of men both at Washington and London facilitated the adoption of this course. Lord Lyons had been lately succeeded as Minister at Washington by Mr. Thornton; and in the summer of 1868 Mr. Reverdy Johnson replaced Mr. Adams in London. It was a manifest advantage that the very able but somewhat uncompromising language of Mr. Adams should be replaced by the smooth and more friendly observations of Mr. Johnson.[2]

When diplomatists endeavour to agree, causes of difference are apt to lose their force; and, in the course of October 1868, a protocol was drawn up by which each country agreed to recognise the citizens naturalised in the other as in all respects and for all purposes the citizens of the State, or the subjects of the country, by whom they had been thus received.[3] The British Government undertook to apply to Parliament for authority to carry out this agreement.

The San Juan boundary.

Almost immediately after the conclusion of this arrangement Lord Stanley and Mr. Reverdy Johnson applied themselves to the more difficult question of a disputed boundary. The arrangement which had

[1] *Parl. Papers*, 1869, North America, No. 1, p. 1.

[2] Mr. Reverdy Johnson's friendly disposition to England excited keen annoyance in the United States. He made the mistake of calling Mr. Roebuck 'my friend Mr. Roebuck' immediately after Mr. Roebuck had used—what Americans considered—insulting language to the United States and its Minister. He actually shook hands with Mr. Laird, the builder of the Alabama. See Rhodes, *Hist. of the United States*, vol. vi. p. 336.

[3] The naturalised alien was to be at liberty to renounce his naturalisation, and resume his original nationality in certain circumstances. *Ibid.*, p. 7. The essential parts of the correspondence and of the protocol are reprinted in *State Papers*, vol. lix. pp. 21–32.

been concluded by Lord Aberdeen in 1846[1] had made the 49th parallel the boundary between the United States and Canada on the mainland; it had given the great island of Vancouver to Great Britain, and it had directed that the boundary of the two peoples at sea should run from the 49th parallel along the middle of the channel separating Vancouver from the mainland. Unfortunately this channel was broken up into many channels by some intermediate islands, and the question not unnaturally arose whether the boundary should be drawn on the American or the British side of these islands. One of these islands, moreover, which was known as San Juan, was becoming rapidly settled, and its ultimate ownership was in consequence assuming new importance. In 1855, during the progress of the Crimean war, the two Governments virtually undertook to direct their officers 'to abstain from all acts on the disputed territory calculated to provoke any conflicts.' But in 1859 the injudicious conduct of an American officer very nearly produced a rupture between the two countries. General Harvey, who commanded the forces of the United States in Oregon, believed, or professed to believe, that 'a British ship of war has carried the chief factor of the Hudson Bay Company to San Juan for the purpose of seizing an American citizen and forcibly transporting him to Vancouver's Island to be tried by British laws.'[2] As a matter of fact, General Harvey appears to have been inaccurately informed on these alleged occurrences. No British ship had been sent to San Juan with an officer of the Hudson Bay Company

[1] *Hist. of England*, vol. v. p. 341. The treaty is printed in *State Papers*, vol. xxxiv. p. 14.

[2] *State Papers*, vol. lv. p. 749.

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for the purpose of seizing an American citizen, and no attempt had been made to seize an American citizen and transport him to Vancouver. On the contrary, though a British subject had complained of some wrong done to his property by an American citizen, the British authorities, 'out of consideration and respect' for the Government of the United States, had paid no attention to the complaint. The Governor of Vancouver's Island, indeed, assured General Harvey that, in accordance with 'the dignified policy' adopted in 1855, he should have referred 'any well-grounded complaint' against an American citizen to the American authorities themselves.[1]

At this point General Harvey, without any loss of prestige, might have closed the correspondence with some friendly expression of regret. Unhappily, however, General Harvey was one of those Americans who take pleasure in indulging in the pastime of 'twisting the tail of the British lion.' The false report on which he had acted had induced him to send a military detachment under Captain Pickett to San Juan, and to direct that 'No laws, other than those of the United States, nor courts, except such as are held by virtue of such laws [should] be recognised or allowed on the island.'[2] The knowledge that he had acted on unfounded allegations did not induce him, however, to withdraw the detachment which he had sent, so injudiciously, to the island 'until the pleasure of the United States Government had been made known on the subject.'[3]

[1] *State Papers*, vol. lv. p. 751, and cf. Mr. Dallas's account in *ibid.*, p. 773.

[2] *Ibid.*, p. 744.

[3] *Ibid.*, p. 753

Happily that Government acted with more discretion than its hasty agent in the town. General Scott, who commanded the United States forces in chief, who had won distinction in the Mexican war,[1] and of whom it had been said in 1856: he 'carries his sword in his left hand, and in his right peace, gentle peace,'[2] was instructed to take the matter into his own hands, and he proposed that 'without prejudice to the claims of either nation each should temporarily occupy a separate portion of the island.'[3] Governor Douglas did not feel justified in accepting this arrangement without instructions from home. But the plan suggested by General Scott was eventually adopted; and the admiral in command on the Pacific Station was instructed to disembark a small body of marines on the island for the purpose of establishing the joint military occupation which General Scott had proposed, and which the British Government had wisely accepted.[4]

The arrangement which was thus made left the ultimate sovereignty of the island open for future determination. Naturally, the events of the succeeding year did not facilitate a settlement. While the fortunes of the great Republic were trembling in the

[1] *Ante*, vol. ii. p. 10.

[2] Rhodes, *Hist. of the United States*, vol. ii. p. 189.

[3] *State Papers*, vol. lv. pp. 753, 789.

[4] *Ibid.*, vol. lv. p. 750. General Scott replaced Captain Pickett's detachment, which General Harvey had sent to the island, with another detachment under Captain Hunt, apparently a much more judicious officer. General Harvey, however, subsequently reversed this order, and was very properly severely reprimanded for doing so. *Ibid.*, pp. 771, 790. I have not thought it necessary, however, in the text to lay much stress on General Harvey's conduct, which must have been almost as offensive to the American Commander-in-Chief as to the British Government. I have had much more pleasure in acknowledging the conciliatory and temperate manner in which General Scott discharged a difficult duty.

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balance, the fate of a little island on the Pacific coast could 'not be expected to attract attention.' If the continuance of the war, however, relegated the San Juan dispute to the background, the conclusion of the war forced it again into prominence. It was obviously unsafe to maintain a smouldering difference which some future General Harvey might succeed in kindling into a flame; and a new effort was consequently made to arrive at an understanding. In the autumn of 1868, Lord Stanley and Mr. Reverdy Johnson agreed to refer the boundary question to the arbitration of some friendly sovereign, and in the meanwhile to continue the joint occupation on the basis which had been arranged by General Scott.[1] And, in the following January, after Lord Stanley had left office, the arrangement which was then made was embodied in a formal convention by which the two countries agreed to refer the question of boundary to the President of the Swiss Confederation.[2]

The Reverdy Johnson treaty.

The satisfactory progress which Lord Stanley and Mr. Reverdy Johnson had made in arriving at a solution of these problems induced them to address themselves to the more serious differences which the depredations of the Alabama had occasioned. Mr. Reverdy Johnson opened the subject at an interview which he had with Lord Stanley on the 20th of October, 1868. Mr. Reverdy Johnson had the good sense to say as little as possible about the claims of the United States to bring before an arbiter the conduct of this country in prematurely recognising the Confederate States as belligerents; and

[1] Cf. *Parl. Papers*, 1869, North America, No. 1, p. 9; *State Papers*, vol. lix. p. 33.

[2] *Ibid.*, p. 78.

Lord Stanley, while frankly avowing that he could not yield on this point, expressed an opinion that a reference could easily be framed in such a way as either tacitly or expressly to avoid the difficulty.[1] Words prove no embarrassment to negotiators who intend to agree; and, in the course of November, Lord Stanley and Mr. Reverdy Johnson drew up, and signed, a convention declaring that, since 1853,[2] claims had been made upon the Government of her Majesty on the part of citizens of the United States, and on the Government of the United States on the part of subjects of her Majesty; that some of their claims were still unsettled; and that their speedy and equitable settlement would contribute to the maintenance of friendly feelings between the two countries. The two high contracting parties, therefore, agreed to refer their claims to four Commissioners, two of whom were to be appointed by the Queen and two by the President of the United States. The Commissioners, who were to meet in London, before proceeding to business, were to select 'some person, to act as an arbitrator or umpire, to whose final decision, save as otherwise provided in Article IV. of the Convention, shall be referred any claim upon which they may be unable to arrive at a decision.' By Article IV. it was further provided that, while the Commissioners should have power to adjudicate upon the class of claims referred to in the official correspondence on the Alabama claims, in the event of their failing to arrive at a unanimous decision the difference should be referred

[1] *State Papers*, vol. lix. p. 36.

[2] A somewhat similar convention had been signed by Lord Russell and Mr. Ingersoll on the 8th of February, 1853, for the settlement of similar claims which had arisen before that date. *Ibid.* vol. xlii. p. 34.

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to some sovereign or head of a friendly State to be named beforehand by the high contracting parties.[1]

It was plain from this language that, in the case of ordinary claims, the dispute was to be settled by arbitration, and that the arbitrator was to follow the course frequently adopted in private suits. The Commissioners were to act as a court of law: they were to investigate the claims presented to them; they were to receive evidence and to hear counsel. But in the case of the Alabama and analogous claims a different procedure was decided on. Neither Government was to make out a case in support of its position; no person was to be heard either for or against the claim. The official correspondence on the subject between the two Governments was the sole material to be laid before either the Commissioners or the Arbitrator, though the Commissioners by a unanimous vote, or the Arbitrator, were to be at liberty 'to call for argument or further evidence if they or he shall deem it necessary.' This curious provision was obviously designed to place before the Commissioners, or the Arbitrator, the arguments of the United States for holding the British Ministry responsible for the recognition of the South as a belligerent; and the refusal of Lord Stanley to refer the conduct of a British Ministry to any tribunal.

The arrangement rejected by Mr. Seward is modified and adopted.

Unhappily, when the Convention reached the United States, its provisions were found to be unpalatable by the American Government. Mr. Seward, indeed, declared that Mr. Reverdy Johnson had exceeded his instructions; he complained that

[1] *State Papers*, vol. lix. pp. 37–40; *Parl. Papers*, 1869.

Mr. Reverdy Johnson had committed his employers to a Convention when he had only been authorised to sign a protocol, and he expressed a strong opinion that the Senate would be unwilling to sanction the Convention in its existing form.[1] He contended that the proposed Commission should sit in Washington and not in London; and he objected to the Alabama claims being treated differently from the other claims referred to in the treaty. His despatch[2] was written at the time when the country was passing through the throes of the general election of 1868, and when the citizens of the United States were still more strenuously occupied with the campaign which placed General Grant in the Presidential chair. In consequence of a change of Government in England, it fell to the lot of Lord Clarendon, the new Foreign Secretary, to receive and reply to the criticisms on the Convention which his predecessor, Lord Stanley, had signed. He succeeded, however, so well that he was enabled, on the 14th of January, to conclude a Convention embodying the alterations which the Government of the United States thought necessary;[3] and on the same day he had the gratification of signing another Convention carrying on the arrangement which Lord Stanley had made with Mr. Reverdy Johnson for the settlement of the San Juan boundary dispute.[4]

In the new Convention the distinction between the Alabama and the other claims was removed. The official correspondence between the two Governments respecting any claims was to be laid before

[1] *State Papers*, vol. lix. pp. 53, 54.
[2] *Ibid.*, p. 57.
[3] *Ibid.*, vol. lix. p. 69.
[4] *Ibid.*, p. 71.

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the Commissioners, and supplemented by any other documents or evidence which either Government might produce. But if the Commissioners, or any two of them, considered that 'from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a special arbitrator should be named, the Commissioners shall report to that effect to their respective Governments, who shall thereupon agree upon some sovereign or head of a friendly state, who shall be invited to decide upon it.' In the new draft the seat of the Commission was transferred to Washington.[1]

It was plain that the new Convention conceded much which Mr. Seward had required, but it was also clear that it reserved to the British Government the power of bringing the Alabama claims before a foreign sovereign. There was reasonable ground for hoping, however, that, since Mr. Seward and Lord Clarendon were agreed, diplomacy had discovered a satisfactory method for adjusting an unfortunate difference. And the credit for the arrangement was fairly attributed to the statesmen on both sides of the Atlantic. This country, mainly owing to Lord Stanley's prudence, had shown a readiness to assent to any reasonable arrangement, and, if regard be had to the natural irritation in the States at the losses which had been sustained through the depredations of the Alabama and her consorts, Mr. Seward had displayed an almost equal desire to conclude some treaty acceptable to both countries. Unfortunately, the American people were not animated by any particular wish to settle the controversy. In the

[1] *State Papers*, vol. lix. pp. 70, 71.

United States the Convention required the ratification of the Senate, and neither the Committee on Foreign Relations nor the Senate looked with any favour on its provisions. Contrary to custom, moreover, the terms of the Convention were at once made public: their publication aroused a strong anti-English feeling. Mr. Sumner, the chairman of the Committee on Foreign Relations, declared that 'it covered none of the principles for which the United States had always contended.' In other words he based his argument on the very point which Lord Stanley and Mr. Reverdy Johnson had wisely decided to suppress, and again rested the case of the States on the conduct of Lord Russell in recognising the belligerent rights of the South: 'In so doing he gave the debate a violent wrench, forcing it back into its former impossible place.'[1] With similar indiscretion the Legislature of Massachusetts thought fit to resolve 'that any treaty which does not by its terms concede the liability of the English Government for acts of her protégés, the Alabama and her consorts, will be spurned with contempt by the American people.'[2]

It is received with disfavour in the United States.

The situation was, moreover, complicated by the change which was concurrently taking place in the *personnel* of the American Government. Mr. Johnson, who had occupied the Presidency since Mr. Lincoln's murder in 1865, was succeeded by General Grant; and Mr. Seward, who had held, as Secretary of State, the chief place in Mr. Johnson's Cabinet, was replaced by Mr. Hamilton Fish. Soon afterwards, Mr. Reverdy Johnson was recalled, and the Embassy

[1] Adams, *Lee at Appomattox*, p. 101.

[2] *State Papers*. vol. lix. pp. 85–87.

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in London was given to Mr. Motley, whose histories of the Dutch Republic and of the United Netherlands had already made his name familiar to every cultivated Englishman. Before Mr. Reverdy Johnson left his post he made one more effort to save the Convention. Writing to Lord Clarendon on the 25th of March, he argued that, as the Convention could not come into operation without its ratification by the Senate, it was necessary to remove the objection which that body was supposed to entertain to it. That objection he believed to be based on its failure to provide for the settlement of any claims which either of the two Governments might have upon the other; and he accordingly suggested the addition of words which would have enabled the Joint Commission to deal with their claims as well as with the claims of their citizens and subjects.[1] This suggestion was one, however, which no British Government could readily accept. For the Americans contended that Lord John Russell's recognition of the belligerent rights of the South had prolonged the war, and that the escape of the Alabama and her consorts had thrown on the American Government the huge expense involved in the preparations for their capture. Mr. Reverdy Johnson, indeed, was adroit enough to suggest that, if the Government of the United States had a claim on the United Kingdom in consequence of its premature recognition of the Confederates as belligerents, the Government of the United Kingdom might have a claim on the United States for damages 'done to British subjects by American blockades, which, if the Confederates were not belligerents, were illegally enforced against

[1] *State Papers*, vol. lix. p. 88.

them.'[1] But apart from the fact that the losses which British subjects had thus sustained bore no comparison to the cost of the Civil War, which Americans were arguing would have been at once repressed if it had not been for the unfriendly attitude of this country, no British Ministry could have accepted the suggestion. No great country can allow the conduct of its public men to be reviewed by an independent authority. For their honour is its honour; and its honour must remain in its own safe keeping.

and is rejected by the Senate.

The Cabinet, therefore, declined Mr. Johnson's new overture,[2] and the Senate, after a speech from Mr. Sumner—in which he enumerated the indirect losses which the United States had sustained by the transfer of her mercantile marine to the British flag and by the prolongation of the war—rejected the Convention by fifty-four votes to one.[3] By a subsequent vote, the consideration of the other Convention which dealt with the boundary of the two countries on the Pacific was postponed till the following December.[4]

This lamentable failure was regretted by the wiser

[1] *State Papers*, vol. lix. p. 87.

[2] The nominal reason for declining was not the real one. 'In the opinion of Her Majesty's Government,' wrote Lord Clarendon, 'it would serve no useful purpose now to consider any amendment to a Convention which gave full effect to the wishes of the United States Government, and was approved by the late President and Secretary of State, who referred it for ratification to the Senate, where it appears to have encountered objections, the nature of which has not been officially made known to Her Majesty's Government' (*ibid.*, p. 91); a sentence devoid in dignity both of conception and expression.

[3] *Ibid.*, p. 96, and Pierce, *Life of Sumner*, vol. iv. p. 386. Mr. Pierce is very anxious to place a moderate interpretation on Mr Sumner's language. But the fact remains that under it lurked a claim of at least 400,000,000*l.* Mr. Rhodes says: 'Of all the outrageous claims of which our diplomatic annals are full, I can call to mind none more so than this.' *Hist. of United States*, vol. vi. p. 339.

[4] *State Papers*, vol. lix. p. 103, and cf. *Hansard*, vol. excviii

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heads on both sides of the Atlantic. 'The practical result,' wrote Mr. Adams on the day Mr. Sumner's speech was published, 'is to raise the scale of our demands of reparation so high that there is no chance of negotiation left, unless the English have lost all their spirit and character.'[1] The principles on which Mr. Sumner assessed the claim of the United States 'would have raised it to the modest figure of some four hundred million pounds sterling, or as Mr. Gladstone himself estimated it, to sixteen hundred millions.'[2] It was impossible for any nation which either respected its past history or had faith in its future fortunes to listen to a demand which would have destroyed its reputation, and exposed it to sacrifices exceeding the cost of a ruinous war; and probably the best course in the circumstances was that which was ultimately adopted—to close the negotiation and gain time for passion to cool, for extravagance to moderate.

The Newfoundland fisheries.

The failure of the negotiation, moreover, was more unfortunate because another question, which had proved a cause of difference between the two countries for the best part of a century, was raising a serious issue between them. By the Third Article of the Treaty of 1783, the people of the United States had been given the right to fish off the coast of Newfoundland, in the Gulf of St. Lawrence, and in 'all

p. 1248. It may be as well to add that the question of the San Juan Boundary was ultimately referred, under the provisions of the Treaty of Washington, to the German Emperor, who, in 1872, pronounced a decision adverse to the claims of this country.

[1] *Life of Adams*, p. 380.

[2] Morley, *Life of Gladstone*, vol. ii. p. 398. But I think that Mr. Gladstone must have meant 1,600,000,000 dollars. There is a correspondence between Mr. Forster and Mr. Sumner on the subject of the latter's speech well worth referring to. Wemyss Reid, *Life of Forster*, vol. ii. pp. 12–20.

other places of the sea where the inhabitants of both countries used at any time heretofore to fish . . . and to dry and cure fish in any of the unsettled bays, harbours, and creeks of Nova Scotia and Labrador.' And from 1783 to 1812 this right remained clear and undisputed. In 1814, when the second American war was concluded by the Treaty of Ghent, the representatives of the two countries were unable to agree whether war had or had not nullified the provisions of this contract.[1]

The difficulty which had thus arisen was partly solved in 1818. By a treaty which was concluded in that year, American fishermen were confined to the southern shores of the Magdalen Islands, to a portion of the west and south-west coast of Newfoundland, and to the Labrador coast from Mount John northward. They were only allowed to dry and cure fish on the same parts of the Newfoundland and Labrador coasts, and the United States renounced for ever the right of American citizens to take or cure fish in any other part of the territorial waters or coasts of the British colonies.[2] Unfortunately, this treaty did not lead to a final settlement. The British, taking a broad view—which they have been in the habit of asserting nearer home than Newfoundland—asserted that 'territorial waters,' instead of following the bend of the coast, must be measured from headland to headland, and that American fishermen had consequently no right to enter any of the great gulfs

[1] Andrews, *Hist of the United States*, vol. ii. p. 330. For the Treaty of Versailles see *State Papers*, vol. i. p. 779. The Treaty of Ghent will be found in *ibid.*, vol. ii. p. 356.

[2] For the Act confirming this Treaty see 59 Geo. III. cap. 38. It is reprinted in *State Papers*, vol. vi. p. 946; cf. Andrews, *Hist. of the United States*, vol. ii. p. 231. The *Times* published a summary of the question on the 16th of November, 1905.

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which indent the shores of Newfoundland. If the British contention was large, the practice of American fishermen was equally comprehensive. An American historian has himself admitted that they 'persisted in exploiting the great bays, landed upon the Magdalen Islands, pushed through the Gut of Canso (between Cape Breton Island and Nova Scotia), and were none too careful at any point to find or heed the three-mile line.'[1] On one side a wide claim, on the other side a loose practice, was increasing the tension between the two countries.

The controversy which thus arose between the two countries endured for thirty-six years. In 1854, however, it was closed by a new arrangement concluded at Washington between Lord Elgin, the Governor-General of Canada,[2] and Mr. Macey, who held the office of Secretary of State under President Pierce. By this arrangement the coasts of British North America were, with few exceptions, opened to American fishermen, while the coasts of the United States north of the 36th parallel were similarly opened to British fishermen. The fisheries for salmon, shad, and shellfish were, however, reserved to the fishermen of the countries in which the fish

[1] Andrews, vol. ii. p. 232. The reader must recollect that, from the nature of their calling, fishermen have exceptional opportunities for infringing the territorial rights of other nations, and that men of Anglo-Saxon origin have a sort of traditional belief that the whole sea belongs to them. It was my duty years ago to examine, *inter alia*, into the complaints against foreign fishermen for fishing in British waters, and I elicited from a fisherman, loud in his complaints, that he was in the habit himself of fishing in German territorial waters. On my asking him how he reconciled his complaints with his practices, he said: 'Sir, I suppose that an English fisherman has cheek enough for anything.'

[2] *Ibid.*, vol. xliv. p. 25. It is worth noticing that this treaty was signed by the Governor of Canada without any corresponding signature from representatives of the United States.

were caught.[1] This arrangement was to last for ten years, but might be then terminated, on twelve months' notice from either of the two parties to it. The Government of the United States gave notice of its termination[2] on the 17th of March, 1865, when the Civil War was just ending, and declared, in subsequent correspondence, that there was no hope of obtaining the necessary majority in the Senate for the renewal of the treaty. Thus, except that by a Canadian Act of 1868 the Governor was enabled to license foreign fishermen either to take or dry fish in the waters or on the coasts of Canada,[3] the reciprocal arrangements made in 1854 were cancelled; and the fishermen had to fall back on the 'long and perplexing rules of the 1818 Convention, with all the consequent strife.'[4]

In the original Act, under which these licences were granted, a duly appointed officer was authorised to bring into port any vessel or boat 'bound elsewhere,' and continuing or 'hovering for twenty-four hours after the master shall have been requested to depart,' and if such vessel had been fishing or preparing to fish in British waters without a licence it could be forfeited. But, by an amending Act passed in 1870, this strong provision was further strengthened; and a duly appointed officer was enabled to seize any vessel hovering in British waters whether it had been given notice to depart or not.[5]

Thus, in the autumn of 1870, three questions, each of which was pregnant with danger, disturbed

[1] For the Acts of the Colonial Governments confirming the Treaty see *State Papers*, vol. xlv. pp. 878 *seq.*

[2] *Ibid.*, vol. lviii. p. 1178.

[3] *Ibid.*, vol. lix. p. 860.

[4] Andrews, *Hist. of the United States*, vol. ii. p. 233.

[5] *State Papers*, vol. lx. p. 292.

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the relations between this country and the United States. In the far west, the long-standing dispute about the boundary between the two countries, which had gradually been reduced to a struggle for the ownership of San Juan, might obviously be rendered acute at any moment by the indiscretion of some subordinate officer on either side. In the east, the determination of the American fishermen to go on fishing, and the resolution of the Canadian authorities to enforce their rights, might equally lead at any moment to a conflict which, from a narrow origin, might extend as rapidly as the conflict between the Montagues and the Capulets in the opening scene of 'Romeo and Juliet.' In addition to these grave sources of difference and irritation, the claims of the United States for compensation for the losses which she had sustained through the depredations of the Alabama were no less impossible for one country to acknowledge than difficult for the other to withdraw. The English, on their side, with a characteristic confidence in their own case, seemed determined to stand firm. The Americans, on the other side, with a growing consciouness of their own power, were obviously inclined to avail themselves of any convenient opportunity for pressing their claims.

The relation of the American dispute to the Russian demand.

While these outstanding disputes were arousing anxiety in thoughtful minds, Russia suddenly denounced the arrangement which had been forced on her in 1856; and this country had to determine whether it would maintain the stipulation which it had fought so hard to secure. In answering this question the men responsible for the conduct of the country could hardly ignore the serious difficulty

with which they were confronted on the other side of the Atlantic. The Russian Minister at Washington, indeed, called on Mr. Fish and suggested—in what a distinguished American writer has called 'a neighbourly sort of way'—that the present time was most opportune to press on Great Britain an immediate settlement of the Alabama claims.[1] It is clear, therefore, that Prince Gortchakoff had some hope that the pressure of the great democracy in the West might assist autocracy in Eastern Europe in the event of a possible struggle. And the British statesmen, however ready they might be to uphold their country's cause and their country's honour, could not afford to disregard the combination of the great Empire of the East with the great Republic of the West.

If, however, British statesmen suddenly found themselves confronted with a combination of two of the great powers of the world, if they found themselves forced to reap the harvest whose seed their predecessors had sown, they had also to acknowledge that the task which they might be called on to undertake was one which they would have to carry out alone. The old ally of England in the Crimea was unable to raise a hand for their assistance; and neither Austria nor Italy was likely to move a regiment or a vessel in defence of an arrangement which had been none of their own making, and

[1] Mr. Adams has softened the passage by describing the present time 'that of the Franco-Prussian war,' *Lee at Appomattox*, p. 162. But as the call was made 'about the middle of November' 1870, and as the Russian denunciation of the Treaty of Paris was delivered to Lord Granville on the 9th of November (*Parl. Papers*, 1871, vol. lxxii. p. 6), it is clear that it was Russia's denunciation of the treaty and not the Franco-Prussian war that made the time opportune for that 'neighbourly' visit.

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which, as a matter of fact, had never been approved by them. Was, then, this country alone to attempt to uphold the work which she and France together had constructed fourteen years before? Was England to risk war with the sure and certain knowledge that her embarrassment would strengthen the attitude of the Americans and expose her to the inconvenient renewal of their claims? And was she to do this, not in defence of any interest, but for the sake of maintaining an arrangement which no country in Europe approved, which many of her own foremost statesmen deplored, and which had already enjoyed a longer life than its real author had ventured to predict for it?

The difficulties of England.

On the other hand, if England had no direct motive for enforcing the maintenance of an arrangement which she should never have imposed, this country—in common with all Europe—had a deep interest in insisting that treaties made by the great powers should only be reversed by the powers which had subscribed them, and that no one nation should be at liberty to set aside stipulations to which all had agreed. It was not, in other words, the matter of Prince Gortchakoff's despatch, it was the manner in which Russia denounced the treaties, that created alarm. If Russia had simply contented herself with saying that the time had come when she thought herself entitled to ask the great powers to reconsider the provisions which they had inserted in the treaties of 1856, some men might have regretted, but none could have fairly condemned her action. It was Prince Gortchakoff's blunt declaration that the Russian Emperor felt 'himself both entitled and obliged (se croit en droit et en devoir)' to denounce

the special and conditional convention appended to the treaties, which filled the statesmen of other countries with apprehension and alarm, and which probably commended his action to the cynical and resolute statesman who suggested this policy.

The feeling in the country.

If the people of this country could have regulated its foreign policy they would probably have met Prince Gortchakoff's denunciation with a menace of war. The 'Times,' indeed, which is supposed to reflect the opinion of the upper classes, in reporting the issue of the Prince's circular, contented itself, in the first instance, with stating that a circular had been addressed to the powers which had signed the Treaties of 1815 respecting some of the provisions of the Treaties of 1856 which the Russian Government desired to be modified. But, if its reference was at first studiously moderate, two days afterwards the 'Times' used stronger language. 'A study of Prince Gortchakoff's circular must excite in England, as in Southern Europe, regret not unmixed with indignation.' A day later it spoke of the despatch as 'this most insolent State Paper'; and, a day later still, it declared itself in favour of war if Russia did not withdraw the document.[1] The attitude of the 'Times' was reflected in the conduct of Sir C. Buchanan, who represented this country in St. Petersburg, and who told Prince Gortchakoff, on the 9th of November, that he had not previously alluded to the rumours which had reached him, because he could not believe a report that measures were about to be taken so offensive to the Queen and the dignity of Great Britain; but that, if the reports were true, he should 'expect an

[1] See the *Times*, 14th, 16th, 17th, 18th November, 1870.

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order to ask for his passports and to leave St. Petersburg immediately.'[1] Even Mr. Gladstone, though 'not dissenting on the substance of the Russian claim, was outraged by the form.'[2] Mr. Otway, who held the post of Under Secretary for Foreign Affairs, actually refused to defend the Government, and resigned his office.

Lord Granville's first despatch.

The man, however, who, as Foreign Secretary, represented England in the autumn of 1870, and to whom Prince Gortchakoff's despatch was in the first instance communicated, did not allow his smooth temper to be ruffled by the language or the arguments of the Russian Minister. The Cabinet was dispersed throughout the country; Mr. Gladstone himself was detained by considerations of health at Hawarden,[3] and Lord Granville had to consider, almost alone, what he should do. Writing almost immediately[4] to the British Ambassador, Lord Granville pointed out that 'it has always been held' that the right of releasing a party to a treaty from any of its stipulations 'belongs only' to the Governments who have been parties to the original instrument.' Prince Gortchakoff, on the contrary, appeared 'to assume that any one of the powers' who had signed a treaty might announce 'that it has emancipated itself, or holds itself emancipated, from any stipulations which it thinks fit to disapprove.' It was, therefore, 'impossible for her Majesty's Government to give any sanction to the

[1] *Parl. Papers*, 1871, vol. lxxii. p. 13.

[2] Morley, *Life of Gladstone*, vol. ii. p. 350.

[3] *Ibid.*, p. 351.

[4] Prince Gortchakoff's despatch dated 31st October was handed to Lord Granville on the 9th of November. Lord Granville's reply is dated 10th November. *Parl. Papers*, 1871, vol. lxxii. p. 7.

course announced by Prince Gortchakoff.' Lord Granville went on to say that 'if the Russian Government had asked the powers, parties to the Treaties of 1856, to consider whether there is anything in the terms of the treaty which, from altered circumstances, presses with undue severity upon Russia, or which in the course of events had become unnecessary for Turkey, her Majesty's Government would not have refused to examine the question in concert with the co-signatories to the treaty.'

Lord Granville's temperate despatch commended itself to the good sense of the people. In the words of a younger man, destined to rise in later years to the first place in his sovereign's council chamber, it elicited the praise, not merely of England, but of the whole of Europe.[1] If Lord Granville had stood firm on this declaration he would have acquired unbounded fame, but the ink on the despatch was hardly dry before he took another step of supreme importance. He saw that the key to the situation lay neither in St. Petersburg nor in London, but at Versailles, where Count von Bismarck was watching the military progress of the German arms. In 1870, however, the British Foreign Office had no direct means of communication with the Prussian Chancellor. The British Ambassador was at Berlin, and had work of his own to do in the capital; and Lord Granville accordingly decided to bring himself into direct touch with Count von Bismarck and the King of Prussia by sending some competent emissary to the headquarters of the Prussian army. He chose for the purpose Mr. Odo Russell, who for many years

[1] Lord Rosebery, see *Hansard*, vol. cciv. p. 28.

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Mr. Odo Russell's mission to the Prussian head-quarters.

had occupied a somewhat anomalous position in Rome,[1] whose name and whose training gave him peculiar qualification for the work of diplomacy, but whose modest and retiring manners hardly fitted him, in the eyes of any mere onlooker, for a contest with a man of blood and iron. Probably even Lord Granville, intent on peace, only imperfectly realised that the unobtrusive diplomatist whom he was entrusting with an important mission was destined to be reckoned among the very few men who won distinction in the nineteenth century as diplomatists, and who are recollected, not for rashness and disloyalty, but for loyalty and prudence.

On arrival at Versailles Mr. Odo Russell sought an interview with Count von Bismarck. The Count, whose preliminary suspicions of Mr. Russell were rapidly disarmed by the pleasantness of his manner,[2] had the assurance to tell the British Envoy that he was surprised by Russia's circular, and that he regretted it, but that he could not interfere or return an official answer to it at present. Mr. Odo Russell, however, did not satisfy himself with this answer. In the course of a second interview he frankly told the Prussian Minister that unless the Circular were withdrawn the British Government would be compelled, with or without allies, to go to war with Russia. This bold declaration made Count von Bismarck moderate his language. Ready as he had been to sow discord between Russia and this country, he had no desire to enlarge the area of the great war in which he was engaged. He had persuaded

[1] He was nominally Secretary to the British Embassy at Florence. But he was resident in Rome, and consequently in touch with the Papal Court.

[2] Cf. Busch's *Bismarck*, vol. i. p. 3.

himself that England, which had let him work his will in Denmark in 1864, would not draw the sword to hold Russia to her promises in 1870. And the unexpectedly bold language of the somewhat mild and courteous gentleman, who had been sent to him specially from London, induced him to hesitate.[1] He accordingly suggested that a solution of the difficulty might be found in referring the question to a Conference. He strongly recommended that the Conference, if it were accepted, should be held at St. Petersburg; and he intimated that he understood that Prince Gortchakoff would be disposed to agree to this course.[2]

Count von Bismarck suggests a conference,

The news of Count von Bismarck's offer reached London on the eve of the tardy meeting of the British Cabinet. Mr. Gladstone, at that meeting, used firm language. 'Her Majesty's Government'—so he said—'could enter into no Conference which should assume any portion of the Treaty of Paris to have been already abrogated by the discretion of a single power'; but, subject to this condition, or, to use Lord Granville's official language, 'on the express understanding that it should in no way be prejudiced by any previous assumption as to the result of its deliberations,' the Cabinet declared that it had 'no objection to enter into a Conference for the purpose of considering any adequate statement of the grounds

which is accepted by England.

[1] Mr. Gladstone subsequently said in Parliament that Mr. Odo Russell had not used those words by the direction of H. M.'s Government. He added: 'In saying that, I do not imply the slightest blame to Mr. Odo Russell, because it is perfectly well known that it is the duty of H.M.'s diplomatic agents abroad to use their best discretion in the mode in which they can support the argument or proposition it might be their duty to procure the acceptance of.' — *Hansard*, vol. cciv. p. 319; Morley, *Life of Gladstone*, vol. ii. p. 354.

[2] *Parl. Papers*, 1876, vol. lxxvi. p. 26; cf. Morley's *Gladstone*, vol. ii. p. 352.

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on which Russia may wish to bring before the co-signatory powers a proposal for the revision of the special Convention between herself and Turkey, annexed to and embodied in the treaty of 1856.' There seemed, however, to be an objection to a Conference being held at St. Petersburg. But her Majesty's Government would be willing to accept Vienna, Florence, or London as the place of meeting.[1]

Lord Granville's mistake.

In this negotiation, it may perhaps be ultimately concluded that Lord Granville did the right thing in the wrong way. Nothing could have been better than his original despatch. He had placed the Russian demand on its proper footing, and had vindicated the public law of Europe by refusing to allow that any one power could proclaim its right to recede from provisions to which all the great powers had agreed. But, having laid down his principle, he would probably have acted much more wisely if he had refrained from any further action. Russia was in no position to convert her threat into action, for she had no naval strength in the Black Sea; and Lord Granville might consequently have waited for Prince Gortchakoff to make the next move. By sending Mr. Odo Russell to Versailles, he threw away this advantage. He gave Count Bismarck—who, in fact, had instigated the Russian action—the opportunity of suggesting that the great powers should meet and discuss the Russian demand. If Russia had been left to make the next move, she would have been practically forced to withdraw her objectionable circular as a condition for negotiation. When the move was given to a nominally

[1] *Parl. Papers*, 1871, vol. lxxii. pp. 26, 27,

friendly power like Prussia, it was comparatively easy to be satisfied with some explanation of the offensive despatch. If, indeed, the Cabinet in the autumn of 1870 could have acted on Lord Melbourne's famous advice—when in doubt, do nothing—the position would most certainly have been strengthened. Its strength, such as it was, moreover, was due to the envoy's action and not to Lord Granville's instruction. For Mr. Odo Russell's frank declaration that insistence on the Russian demand would compel the British Government with or without allies to go to war, induced a belief that this country would prefer war to dishonour.

While, then, history will probably record that it was desirable to find some means for revising a treaty which ought never to have been concluded, it may possibly consider that if Lord Granville had rested on his original despatch, he might have compassed his purpose with far smaller inconvenience. Lord Granville, indeed, adopted many precautions to show that the Conference to which he agreed was free to arrive at any arrangement which it thought proper to adopt. The great powers undertook solemnly to consider in conference whether the time had arrived for modifying the condition on which Lord Palmerston had unwisely insisted in 1866. But every one of the great powers which entered the Conference room was perfectly aware that only one answer could be given to this consideration. At the instance of Lord Granville, indeed, they all professed that they entered on their task without any 'foregone conclusion.' It was afterwards pointed out with some force in Parliament that the Foreign Office was so anxious

The foregone conclusion.

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on this subject that the words 'no previous assumption,' 'no assumption,' and 'no foregone conclusion,' occurred twenty times in some sixteen despatches. With commendable consistency, Lord Granville even made Prince Gortchakoff repeat the shibboleth, and accept the Conference 'on the distinct understanding that it was not to meet on "a foregone conclusion."'[1] Yet Lord Granville must have known that whatever professions it might make, the Conference could only arrive at one solution of the difficulty. The Humpty Dumpty of Lord Palmerston's creation had tumbled off the wall, and all the Queen's horses and all the King's men could not put it up again. Lord Granville might say, he indeed did say—when the Conference met on the 17th January, 1871—that the powers met to examine the proposals of Russia with a free hand and a free voice.[2] The representative of Russia might say, as the representative of Russia did say, that 'he recognised it as the essential principle of the law of nations that no power could liberate itself from the engagements of a treaty, nor modify the stipulations thereof, unless with the consent of the contracting powers.'[3] Neither the British Minister nor the Russian Representative was deceived by these assurances. The language was simply used to conceal the truth that Russia had denounced the treaty, and that the Conference had met to register the foregone conclusion which it was

[1] *Parl. Papers*, 1871, vol. lxxii. p. 63, and cf. Sir C. Dilke's speech in *Hansard*, vol. ccv. p. 896.

[2] Dans le but d'examiner sans aucun parti pris, et de discuter avec une parfaite liberté, les propositions, &c., *State Papers*, vol. lxi. p. 1194.

[3] *Parl. Papers*, 1871, vol. lxxii., and *Hansard*, vol. ccv. p. 1504, and cf. *Life of Lord Granville*, vol. ii. p. 76.

at such pains to repudiate. Mr. Disraeli had said in the House of Commons beforehand: 'That will happen at the Conference which always does happen at Conferences to which Russia is a party, and particularly where Prussia is also a party—namely, that Russia will gain her object.'[1] Mr. Disraeli's cynical prediction was, at any rate, justified. The ease with which the Conference concluded its labours was indeed the best proof of the 'foregone conclusion' which it took so much pains to disavow. Meeting for the first time on the 17th of January, it held its last formal sitting on the 14th of March. But these dates give a very imperfect idea of the haste with which the Conference concluded its labours. The whole practical business was completed at the first four of their sittings, the last of which was held on the 7th of February. It had taken the plenipotentiaries at Ryswick more time 'to settle how many carriages, how many horses, how many lacqueys, how many pages each Minister should be entitled to bring,'[2] than it took Lord Granville and his colleagues to annul the provision in the Treaty, which Lord Palmerston had considered worth a year of war.

During these rapid negotiations, moreover, one power of Europe was excluded from the council chamber. France had been one of the allies which had brought the Crimean war to a conclusion. The arrangements on which peace had been finally concluded had been arranged at her capital. She had a larger interest in the schemes which were proposed at the Conference than any other nation. Yet France, with her capital beleaguered, her territory overrun

[1] *Hansard*, vol. cciv. p. 86.

[2] I need hardly refer to Macaulay's famous account, *History*, vol. iv. p. 791.

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by the enemy, had no one to represent her in London. If, indeed, the Conference could have been postponed for a single fortnight, France—which by this time had been forced to accept an armistice—might have sent her plenipotentiary. If it had been put off for two months, France—which had then concluded a treaty of peace—might have taken her part in the Conference. Two months' delay would not have been a very serious matter in the reconsideration of an arrangement which had already endured for years.

For the time had at last come when the war was rapidly drawing to an end. At the beginning of December a new army, organised in Orleans, was driven back behind the Loire. General Chanzy in the south, General Bourbaki in the west, General Faidherbe in the north failed to break through the barriers which separated them from the garrison at Paris. The food available at the capital, already reduced, was obviously incapable of sustaining life for many more days. A great sortie, suggested by despair, failed to make any impression on the German lines. Paris, it was evident, could no longer continue the struggle. The provisional government established at Tours had already found it necessary to retire to Bordeaux. One-third of the soil of France was already in the occupation of the enemy. Men like M. Gambetta, who drew courage from despair, still talked of continuing the struggle. The logic of facts irresistibly proved that France had neither men nor arms nor money to continue the war.[1] All the circumstances which had made

[1] Hanotaux, *La France Contemporaine*, vol. i. p. 79 *seq.* M. Hanotaux's somewhat cold account should perhaps be cor-

France great had increased the difficulties of her defence. An unorganised country, without roads and railroads, may hope to carry on a guerilla warfare against powerful armies. The communications which France enjoyed, in the hour of her defeat increased the facilities of her enemies.

The revival of the German Empire.

And those enemies had just given to the world a striking proof of their predominance. The monarch who commenced the war as King of Prussia was proclaimed on the 18th of January, 1871, Emperor in Germany. The ceremony took place in the Galerie des Glaces at Versailles, the central gallery in the magnificent palace of the Grand Monarque. At the invitation of the King of Bavaria, the King resumed the Imperial title, which had been suspended for more than sixty years, and which conferred on him the duty to protect the right, to assure the peace, and to maintain the independence.[1] In many cases there is not, perhaps, any marked difference between the titles of King and Emperor. The former word has the advantage of expressing in a Teutonic word of one syllable the idea which the latter conveys from the Latin in three syllables. But in the case of Germany the acceptance of the Imperial title did something more than change a name. It was revived, in Mr. Bryce's language, 'because it best seemed to express the titular superiority of the head of the State over the Kings and Grand Dukes whose dominions compose its body.' It revived the idea, moreover, of that Holy Roman Empire which had descended from the

rected by the more glowing praise of M. Zevort, who warmly admired M. Gambetta's patriotic efforts. *Hist. de la Troisième République*, vol. i.

[1] I have followed as closely as possible the Emperor's own words. *State Papers*, vol. lxi. p. 1243.

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days of Imperial Rome, through Charlemagne, and Otto, to Rudolph of Hapsburg, and it aroused once more the hope, which the experience of centuries had not wholly dispelled, that the peace which Rome had established under her eagles might be restored by the armed strength of a predominant Germany.

Such a hope, however much it might be shared by German statesmen or German philosophers, could hardly be felt by the unfortunate Frenchmen who were feeling the pitiless result of a policy of blood and iron. The men who were making their King an Emperor had no intention of sparing France one drop of the humiliating draught which they were reserving for her. Count von Bismarck displayed—perhaps purposely—a callous indifference to the feelings of the men who appealed to him in their trouble. When M. Favre complained that the German fire had been concentrated on an asylum for the blind, Count von Bismarck replied, 'I really do not see what you have to complain about. You yourselves do much worse; seeing that you shoot at our sound and healthy men.' When M. Favre said with some bitterness, 'In three days I shall be counted as a traitor' (for arranging the capitulation), the Count replied, 'Why, then, don't you raise an émeute while you still have an army to extinguish it?'[1] As a result of the negotiation, however, an armistice which was originally intended to last for twenty-one days, but which was ultimately extended to six weeks, was concluded on the 28th of January.[2]

An armistice arranged.

[1] Busch's *Bismarck*, vol. i. pp. 490, 508.

[2] The whole of the Papers are reprinted in *State Papers*, vol. lxii. pp. 49 and *seq.*

The armistice was intended to enable the Government of National Defence to summon a duly elected Assembly authorised to decide on the continuance of war, or on the conclusion of peace. The Germans undertook on their part to facilitate, in every way in their power, the election of the deputies and their journey to Bordeaux, where it was decided that the new Assembly should meet, and, while the armistice lasted, to abstain rigidly from entering the city with their army.[1] In every other respect the French were reminded of the consequences of defeat. The forts which surrounded the capital were surrendered to Germany; the troops of the garrison—with the exception of a small force of 12,000 men, and some 35,000 National Guards—were to become prisoners of war. Finally, perhaps as an indication of the still larger indemnities to come, the City of Paris was to pay a contribution of 200,000,000 francs to the German authorities.

The elections.

Few great elections have been carried out so quickly. The armistice was signed on the 28th of January. The election was ordered on the following day. The voting took place on the 8th of February; and a week later the Assembly met at Bordeaux. It at once decided on placing M. Jules Grévy—a statesman who had made his mark in 1848—in the chair.[2] On the following day the Assembly made

[1] This condition was altered on the prolongation of the armistice. *State Papers*, vol. lxii. p. 64.

[2] For M. Grévy see Hanotaux, *La France Contemporaine*, vol. ii. p. 59. I have, for convenience, referred to M. Hanotaux. But the reader may also refer throughout to Zevort, *Hist. de la Troisième République*. It may be added that the Assembly was fixed at 768 Deputies; but so many persons were returned for different constituencies — M. Thiers was elected for twenty-six—that only 630 deputies were sent to Bordeaux; 536 members voted in the election of M. Grévy, who secured 517 out of the 536 votes. Hanotaux, pp. 38–56.

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M. Thiers the executive head of a French Republic. There was no doubt that the great majority of the new Assembly recognised and supported a policy of peace. As a French historian has said: 'Aux patriotes qui conseillaient la guerre à outrance, le suffrage universel avait répondu en acclamant la paix à outrance.'[1] But there was also no doubt that, while adopting a republic, the vast majority of the new Assembly was in favour of ultimately adopting some form of monarchy. They temporarily submitted to a republic because, in M. Thiers's own formula, it was the Government which divided France the least.[2] The friends of monarchy were divided between legitimacy in the person of the Comte de Chambord, and constitutional monarchy in the shape of the Comte de Paris, and they required time to heal their differences. The legitimists, moreover, considered that the disaster of 1870 should be remedied by a peace before either the Comte de Chambord or the Comte de Paris entered on his heritage. The Comte de Chambord himself desired that the House of Bourbon should not be restored while the enemy were still encamped on the soil of France.[3] M. Thiers, in the meanwhile, could organise a republic without republicans,[4] and, by concluding a peace which no other man in France seemed so capable of forming, could pave the way for a new restoration.

In the new negotiation which then took place M. Thiers—and M. Favre, who was ultimately associated with him—were at a striking disadvantage.

[1] Zevort, *La Troisième République*, vol. i. pp. 149, 150.
C'est le Gouvernement qui nous divise le moins,' *ibid.*, p. 52.

[2] *Memoirs of the Count of Falloux*, vol. ii. p. 336.

[3] Hanotaux, vol. i. p. 96.

For, like the French, M. Thiers was a creature of emotion, while he had to deal with an antagonist who regarded emotion as folly. The one man was always appealing to sentiment; the other was the great advocate of blood and iron. It is probable that Count von Bismarck was almost as anxious for peace as M. Thiers himself. It was not his interest to provoke a guerilla war; it was not desirable to increase the anxieties of Europe at the growing predominance of Germany. He thought, himself, that it was a mistake to annex two large portions of French territory; and that much could be said for surrendering Metz to France, or forming some new fortress as a protection against French invasion. But, whatever doubts, whatever hesitation he may have felt, he took good care to disclose none to his antagonists. He had willed that the Rhine should become a German river, and this decision necessitated the annexation of Alsace and the great historic city, Strasburg, which the Count was never weary of describing as the gate of Germany. The military advisers of Germany insisted that Metz, with its formidable fortifications, should remain in German hands, and their judgment compelled him to insist on the cession of German Lorraine.[1] Considerations of policy required that France should pay the penalty of unsuccessful warfare, and Count von Bismarck claimed for her an indemnity of six milliards (240,000,000*l.*). The passionate emotion of M. Thiers, which made an impression on the hitherto unimpressionable

[1] 'If they were to give us another milliard, we might perhaps leave them Metz. I do not want so many Frenchmen in our own house. But the soldiers wil not hear of giving up Metz, and perhaps they are right.'—Busch's *Bismarck*, vol. i. p. 537.

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Prussian, induced Count von Bismarck to exclude Belfort from Alsace, and to leave it to France: the opinion of Europe, and the representations of this country, induced him to reduce the amount of the indemnity from six to five milliards.[1] But in other respects the harsh terms on which the conqueror insisted were adopted, and France was degraded from the proud place which she had hitherto held as the first of continental nations.[2]

The conclusion of an armistice at the end of January, or at any rate the settlement of a peace at the close of February, might have enabled France to take her seat at the Conference of London. As a matter of fact, the Duc de Broglie, who was selected by M. Thiers to represent the French Republic in Paris, did take his seat at the Conference on the 14th of March, and record his formal assent to the arrangements which had been already adopted by

Count von Bismarck had, however, expressed his doubts to Herr Busch as to the wisdom of relinquishing Belfort. See Busch's *Bismarck*, vol. i. p. 557. It is quite possible, therefore, that he may not have been moved by M. Thiers's emotion, but affected by his own policy. He seems, however, to have acquired some respect for M. Thiers. 'You are the last man,' so he said, 'on whom France should have laid this painful task, for of all Frenchmen you have least deserved it.' Peel's *Life of Bismarck*, p. 372.

[2] The provisional Treaty of Peace was followed by a formal negotiation at Brussels, which was ultimately transferred to Frankfort. The definite treaties are reprinted in *State Papers*, vol. lxii. p. 77. The French complained that the final treaty was more adverse to France than the provisional treaty. Hanotaux, *La France Contemporaine*, vol. i. pp. 274 *seq.* It may be added that M. Hanotaux computed the whole cost of the war to France at 620,000,000*l.* and the loss of population at 1,600,000 people (nearly), in Alsace-Lorraine and 490,000 people in the rest of France, and that during the next six years it checked the growth of the people by 780,000. *Ibid.* pp. 305, 309. Lord Granville, at the Duc de Broglie's instance, wrote on the 24th of February urging that the amount of the indemnity should not be greater than that which it was reasonable to expect could be paid. *State Papers*, vol. lxi. p. 661. The preliminary Treaty of Peace is in *ibid.* vol. lxii. p. 59.

the powers.[1] The almost brutal frankness with which Count von Bismarck expressed his opinion that no Frenchman should be permitted to take part in the proceedings[2] might, perhaps, have suggested to a stronger Foreign Minister that the Conference should not meet till France was able to attend. M. Jules Favre, indeed, had some natural reluctance to leave Paris while the city was still suffering from bombardment,[3] and Count de Chaudordy, who represented the provisional government at Tours, increased the difficulty of the position by arguing that the mere existence of the Conference gave the British Government the right to insist on an armistice.[4] All these objections might have been removed if the Conference had been postponed. But Russia and Prussia both demanded that it should meet at once, and the Cabinet had not the courage to refuse the insistence of these powers.[5]

It was everywhere felt in London that this country had played a somewhat humiliating part in an unfortunate proceeding. The best that could be

[1] It may, no doubt, be replied that the frightful civil war, which broke out in the end of March, might have interfered with the Conference. But, as a matter of fact, the Duc de Broglie remained in London throughout the Commune, and might consequently have taken part in the Conference.

[2] Count von Bismarck said to Herr Busch: 'Properly speaking we ought not to allow the Frenchman to join the Conference in London, as he would represent a Government which is not recognised by the Powers, and which will have no legal existence for a long time to come. At any rate, if he begins to speak about other matters he must at once be set about his business.'—Busch, *Bismarck*, vol. i. p. 345.

[3] *Parl. Papers*, 1871, vol. lxxii. p. 93; Busch's *Bismarck*, vol. i. p. 471.

[4] For Count de Chaudordy's argument, *State Papers*, vol. lxi. p. 971.

[5] Sir C. Dilke pointed out in Parliament that Russia and Prussia had urged the early meeting of the Conference, without a French representative, and that the despatches, in which these arguments had been used, had been struck out of the Papers apparently after the index had been prepared. *Hansard*, vol. ccv. p. 907.

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said for Lord Granville was that 'the settlement was one at which every one was glad, and of which no one was proud.'[1] The feeling of irritation,[2] moreover,

[1] Mr. Bernal Osborne in *Hansard*, vol. ccv. p. 974.

[2] Incidentally, the meeting of the Conference led to a suggestion expressed by Mr. Cavendish Bentinck (*ibid.*, p. 1478) and supported by Mr. Disraeli (*ibid.*, p. 1496) that advantage should be taken of the meeting in London to get rid of those portions of the Treaty of Paris which exempted neutral goods from capture at sea. The famous declaration that (i) a neutral flag covers enemies' goods, other than contraband of war, and that conversely (ii) neutral goods, with the same exception, are not liable to capture under an enemy's flag, may perhaps some day be regarded as the only beneficial consequences which resulted from the Crimean War and the Congress by which it was terminated. As, therefore, in 1871 the abolition of this declaration was formally recommended by a great political party, it may perhaps be worth while relating the history of the whole subject. The original rule or custom which gave the belligerent the right to seize neutral goods in any ship apparently descended from the days of the Roman Empire. Rome, indeed, recognised only two classes of people: her subjects and her enemies; and considering that those who were not with her were against her, exercised the right of seizing all goods, in time of war, other than the property of her own citizens. But this proud claim was obviously incompatible with the conditions of modern Europe, and from the beginning of the seventeenth to the latter half of the eighteenth century, England abrogated the rule by treaties with almost all the Maritime Powers of Europe (see Sir R. Collier's speech in *Hansard*, vol. ccv. p. 1493). In 1780, however, when England was at war with France, Spain and her American colonies, and again in 1800, when there was an armed conspiracy against us, the British Government repudiated its obligations and maintained what was called the unquestionable right of any nation at war: to visit and examine on the open sea the merchant vessels of other nations, and to confiscate the enemy's goods found upon them (*ibid.*, p. 1471). Just as the exercise of this right by Spain in 1789 led to the Spanish War, so the exercise of the right by England in the nineteenth century led to the American War of 1812. In 1854, when this country embarked on the Crimean War, she voluntarily waived the right of seizing enemies' goods, other than contraband of war, in neutral vessels; and, in 1856, after the close of that war, she accepted the declaration in the Treaty of Paris, which has already been alluded to in this note. It hardly falls within my present province to consider the effect of the two policies. The Conservative party, as a body, maintained that, as England was the great naval power of the world, any restrictions on the capacity of her ships of war necessarily restricted her opportunities for offence. The Liberals, on the contrary, concluded that, as England was the chief carrying power of the world, she had a special interest in maintaining the rights of neutrals at sea; and that as

was unluckily increased by the fact that the paragraph in the Speech from the Throne which immediately succeeded the sentence relating to the London Conference announced that the British Government had suggested that the subject in dispute between this country and America should be referred to 'a Joint Commission authorised to resume the consideration of the American claims growing out of the circumstances of the American war.'[1] And, unfortunately, there was no doubt that the juxtaposition of the two paragraphs in the Speech represented accurately enough the connection existing between them. A member of the Cabinet, indeed—Mr. Childers—in the previous November, had urged on Lord Granville the importance of getting any differences with the United States out of the way;[2] and the new dispute which had arisen between the two Governments on the rights of

The difficulty.

she was dependent on her supplies from abroad, she had an equal interest in keeping them free from capture. If, however, the rival systems be considered without reference to the needs of this country, it will probably be concluded that the interests of humanity are better fulfilled by the abrogation of the rule than by its observance. For, as it may be hoped that, even in these days of bloodshed, war is the exception and not the rule of the world, so it may be concluded that the rules of international law should be framed in the interests of those who preserve peace, and not of those who disturb it. The ocean is the great thoroughfare of mankind; and it is no more for the interest of the human family that trade should be disturbed by a belligerent than it is for the interests of a race that the traffic on a road should be disturbed by highwaymen. Another debate on the same subject was raised by Mr. Percy Wyndham in 1877, when war with Russia was apparently imminent. *Hansard*, vol. ccxxxiii. p. 1262. It led to a speech from Mr. (afterwards Sir Mountstuart) Grant Duff (*ibid.*, p. 1282), and to another from Sir William Harcourt (*ibid.*, p. 1327), which may be referred to with advantage. Lord Clarendon's speech in 1856 on the Declaration of Paris, which contains the original case, is in *ibid.*, vol. cxlii. p. 488.

[1] *Hansard*, vol. cciv. p. 5.

[2] *Life of Childers*, vol. i. p. 173.

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fishing on the coast of Newfoundland predisposed both of them to labour for a settlement.

So far as the claims to which the Alabama had given a name were concerned, the position of the two countries had been slightly modified since Mr. Sumner had made the speech which had induced the Senate to reject the Johnson-Clarendon Treaty. Mr. Sumner, indeed, personally maintained his uncompromising attitude. The language of British statesmen at home had convinced him that England set little store on her great colonial possessions, and he had persuaded himself that she would ultimately withdraw from America. It seems certain that he intentionally exaggerated his country's claims for satisfaction, because he was contemplating their settlement by a vast surrender of territory. Russia had already retired from the American continent by the sale of Alaska to the United States. The withdrawal of Great Britain, and the annexation of British America to the States, would complete the process; and the abandonment of the great dominion which British statesmen were still regarding with indifference could be accepted by the Government of the United States as full satisfaction for any and every claim which it might have against the Government of the United Kingdom.[1]

The attitude of President Grant.

It was natural that a man who regarded British North America as the satisfaction to be obtained should make his claim high. Mr. Sumner virtually claimed that the recognition of the Southern States as belligerents had converted the rebellion into a war, and that the United Kingdom was consequently liable

[1] See Adams, *Lee at Appomattox*, &c., p. 150 *seq.*; and Rhodes, *Hist. of the United States*, vol. vi. pp. 341, 342.

for all the charges and all the losses which the war had inflicted, either on the United States itself or on its subject citizens. But the new Government of the United States, which had assumed office under General Grant in the spring of 1869, was hardly prepared to follow Mr. Sumner. General Grant himself, indeed, was anxious to recognise insurrection in Cuba,[1] and naturally hesitated to base the American case on the recognition by this country of the much more formidable insurrection of the Confederate States. Hence it followed that, from 1869 downwards, there was a division of opinion among those who influenced the direction of foreign policy at Washington, and hence it followed that Mr. Motley, in his original interviews with Lord Clarendon in London, failed completely to grasp the alteration which General Grant's accession to the Presidency had introduced into his country's policy.[2]

Mr. Caleb Cushing and Mr. John Rose.

At the time when Mr. Sumner was exaggerating the American case, and General Grant was hesitating to accept Mr. Sumner's conclusions, two other men—Mr. Caleb Cushing and Mr. John Rose—happened to be thrown into each other's company. Under a treaty signed in 1863 they had been selected to arbitrate on the claims of the Hudson's Bay Company, and of other British subjects, to certain lands occupied by them before 1846, and south of the 49th parallel, which, under the arrangement of that

[1] Pierce, *Life of Sumner*, vol. iv. pp. 401, 404; Davis, *Mr. Fish and the Alabama Claims*, p. 23; Adams, *Lee at Appomattox*, &c., p. 108.

[2] *Ibid.*, pp. 115–118. I think that Mr. Adams is correct in tracing the rift between Mr. Sumner on the one hand, and the President and Mr. Fish on the other, to the summer of 1869. Pierce, in his *Life of Sumner*, vol. iv. p. 380, states, as I consider incorrectly, that the relations were agreeable up to the time of the San Domingo controversy.

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year, had been selected as the boundary between the United States and Canada.[1] Mr. Cushing was on terms of confidential intercourse with Mr. Fish, the new American Secretary of State,[2] and Mr. Rose, who was Finance Minister of Canada, had considerable influence in the colony, and was already favourably known in the country. Both men were sincerely desirous to settle the differences between the two nations, and Mr. Cushing, in view of Mr. Sumner's uncompromising attitude, thought that the best chance of a settlement lay in the conclusion of some preliminary unofficial understanding. At his instance Mr. Rose, Mr. Fish, and he talked over the whole subject at Mr. Fish's dinner table, and Mr. Fish made the suggestion, which was destined to bear fruit, that Great Britain should make some kind of expression of regret at the course which she had pursued during the Civil War. Immediately after this interview Mr. Rose went to England, where he had the opportunity of mentioning what had occurred to Mr. Gladstone and other public men.[3]

Thus in the autumn of 1869 two separate negotiations were affecting the course of the dispute. Officially, Mr. Sumner was maintaining his uncompromising attitude, and Mr. Motley was urging in London the complaints which Mr. Sumner had made at Washington;[4] unofficially, Mr. Fish was discussing with Mr. Rose the adoption of a very

[1] The Treaty of 1863 will be found in *State Papers*, vol. liii. p. 6.

[2] *Lee at Appomattox*, &c., p. 114.

[3] *Ibid.*, p. 124 *seq.*; cf. as to Mr. Rose, Davis, *Mr. Fish and the Alabama Claims*, pp. 44 *seq.*

[4] He was supported in this course by a strong despatch from Mr. Fish on the 25th September, 1869. This despatch was said by Lord Clarendon to be Mr. Sumner's speech over again, and by another Englishman to have outsumnered Sumner. Pierce, *Life of Sumner*, vol. iv. p. 412.

different policy; and Mr. Rose was suffered to repeat in London the language which he had heard at Mr. Fish's dinner table. Mr. Gladstone himself was taking occasion by the hand to open the way to a policy of peace. In speaking at the Lord Mayor's banquet in November 1869, he alluded to Mr. Peabody, the benefactor of the London poor,[1] who had just died in London, and added: 'With the country of Mr. Peabody we are not likely to quarrel. . . . I speak with confidence'—so he went on—'in anticipating that that which the whole world would view with horror and amazement—a parricidal strife between England and America—is above all things that most unlikely to grow out of this state of affairs.' There was still a long and difficult interval to be passed before the estrangement of the two countries was to be replaced by cordial friendship.[2] But something had been gained when the chief adviser of the President was authorising Mr. Rose to suggest unofficially a possible compromise in London, and the Prime Minister of England was declaring a war between the two nations to be above all things the most unlikely.

Mr. Gladstone's pacific language.

Yet for a whole year after Mr. Gladstone's speech the negotiation made little or no progress. It required, perhaps, the stimulus of European war, and the denunciation of the Black Sea Treaty, to galvanise the question into activity. Spurred, possibly, by the incitations of the Russian Government, however, General Grant alluded in sharp terms to the controversy in his message to Congress, and recommended

[1] For Mr. Peabody, *supra*, vol. ii. p. 464.

[2] *Times*, 10th of November 1869.

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that the United States should itself settle the claims of American citizens against the British Government, so that the Government should have 'the responsible control of all the demands against Britain.' And this speech, coupled with its increased anxieties in Europe, induced the British Government to take a fresh step. It authorised Mr. (now Sir John) Rose—'as one half American, one half English'—to return to Washington and ascertain what could be done to settle the pending questions between the two Governments.[1] In the commencement of 1871 Sir John was again dining with Mr. Fish, and suggesting in an after-dinner conversation a proposal, which was subsequently elaborated in a confidential memorandum, for the removal of all questions and causes of irritation between the two countries. Mr. Fish was ready enough to accept the overtures which Sir John Rose had been instructed to make, but he naturally recollected that the success of the negotiations would turn on the decision of the Senate, and that the judgment of the Senate would largely depend on Mr. Sumner's opinion. He almost immediately, therefore, laid the matter confidentially before Mr. Sumner, and he found that Mr. Sumner considered that no settlement could be satisfactory which did not, as a preliminary condition, arrange for the withdrawal of the British flag from the American continent and the West Indies.[2]

Mr. Rose sent to Washington.

[1] Davis, *Mr. Fish and the Alabama Claims*, p. 59; *Lee at Appomattox*, &c., pp. 134, 135.

[2] *Ibid.*, p. 147. See for Sir John Rose's Mission, *Life of Lord Granville*, vol. ii. p. 29. It may seem incredible that a responsible statesman should have considered in 1870 that Great Britain would consent to withdraw from the Western Hemisphere. But it is certain that the idea was in the

If General Grant had deferred to Mr. Sumner's opinion, if he had even abandoned hope of carrying in the Senate any treaty which did not receive Mr. Sumner's support, he must at this moment have broken off the negotiation. Happily, however, for the cause of peace, a growing tension had for some time arisen between the President and Mr. Sumner, both on the affairs of America and on the affairs of England, and still more acute difference had been created between Mr. Sumner and Mr. Fish. This tension—this difference—had already led to the recall of Mr. Motley from England—the 'brutal' recall, as Mr. Sumner called it;[1] for Mr. Motley was supposed to represent Mr. Sumner more accurately than he represented the President. It led almost immediately to the movement which resulted in the deposition of Mr. Sumner, in a new and Republican Senate, from the position which he had so long occupied as chairman of the Committee of Foreign Relations. President Grant and Mr. Fish, in short,

The breach between Mr. Sumner and Mr. Fish.

minds of many people on both sides of the Atlantic. The possible withdrawal had been the subject of discussion between the President, Mr. Fish, and Mr. Sumner on more than one occasion. Mr. Fish had sounded the British Minister at Washington, Sir E. Thornton, upon it, and Sir Edward had replied that 'England did not wish to keep Canada, but could not part with it without the consent of the population.' Pierce, *Life of Sumner*, vol. iv. p. 409. And this opinion was not confined to diplomatists. The *Times* professes itself the interpreter of opinion, and the *Times* declared: 'Instead of the Colonies being the dependencies of the Mother Country, the Mother Country has become the dependency of the Colonies. We are tied, while they are loose: we are subject to danger, while they are free.' *Times*, 18th of December, 1869. And a few months later, when Canada found fault with some of the provisions of the Treaty of Washington, it wrote: 'From this day forth, look after your own business: you are big enough, you are strong enough. . . . We are both now in a false position, and the time has arrived when we should be relieved from it. Take up your freedom, your days of apprenticeship are over.'—See also *Lee at Appomattox*, &c., p. 158.

[1] *Life of Sumner*, vol. iv. p. 448.

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determined to break with Mr. Sumner, and to accept the offer which Sir John Rose had brought with him from England; and on the 24th of January, 1871, Mr. Fish acquainted Sir John with the President's decision.[1]

It is hardly the part of a history of England to criticise in much detail the character and conduct of public men in America, and American citizens must be left to trace for themselves the causes which led to Mr. Sumner's exclusion from the chairmanship which he had so long held. But an Englishman would do well to recollect that the arbitrary character of General Grant, the overbearing temper of Mr. Sumner, and the increasing determination of Mr. Fish to support his new chief and to break from his old friends, were just as much factors in contributing to the final settlement as the desire of Mr. Gladstone for peace, which overbore the objections of his old leader, Lord Russell, and the

[1] *Life of Sumner*, vol. iv. p. 109, and Appendix F, p. 225. Mr. Motley's resignation is dealt with shortly in O. W. Holmes's *Life of Motley*, p. 164 *seq.*, and more fully in Pierce's *Life of Sumner*, vol. iv. p. 401 *seq.* It is clear from the latter work that Mr. Motley's instructions were modified from the anxiety (1) to say nothing which might clash with the President's desire to recognise the Cuban insurgents as belligerents, and (2) to say nothing which might impair Mr. Sumner's argument that the recognition of the Confederates as belligerents had converted rebellion into war. Mr. Motley was aware of the struggle over his instructions and of the concessions made to Mr. Sumner, and perhaps, in consequence, imparted a little too much of Mr. Sumner's reasoning into his conversation with Lord Clarendon.—Cf. Davis, *Mr. Fish and the Alabama Claims*, p. 31 *seq.* For the final quarrel between Mr. Fish and Mr. Sumner see *Life of Sumner*, vol. iv. pp. 465, 466. Mr. Sumner's removal from the Chairmanship of the Committee of Foreign Relations took place on the 9th of March, 1871, *ibid.*, p. 470. A year later Mr. Low also said to Lord Dufferin, on his appointment as Governor-General of Canada, that he ought to make it his business to get rid of the Dominion.—*Life of Lord Dufferin*, vol. i. p. 286.

scruples of some of his colleagues and many of his supporters.[1]

When it had been once decided to accept the offer which Sir John Rose had brought, little time was lost in the discussion of details; and on the 9th of February, 1871, the Queen, in opening Parliament, was able to announce that she had suggested the appointment of a Joint Commission to settle the existing dispute between the United States and this country on the subject of the Fisheries on the North American coasts, and that, on the proposal of the President, she had consented to refer to the Commission all claims for compensation growing out of the circumstances of the late war, 'which have been or may be made by each Government or by its citizens upon the other.'[2]

The announcement in the Queen's Speech was susceptible to criticism. In consenting to refer to the Commission all claims which had been made by each Government or its citizens upon the other, it was obvious that the Ministry had included in the reference matters which hitherto it had been the object of every statesman to exclude. For in addition to the claims of individuals the reference included the claims of Governments, and these claims gave an opening to all the far-reaching arguments which Mr. Sumner had employed. Comparatively little notice, however,

[1] I have not thought it necessary in the text to discuss the President's policy either in respect of Cuba or of San Domingo. It was the President's wish to annex San Domingo, and Mr. Fish's reluctant assent to that wish, that led directly to the quarrel between Mr. Fish and Mr. Sumner, which had so far-reaching an effect on the final settlement of the Alabama disputes. See *inter alia* on the subject, Pierce, *Life of Sumner*, vol. iv. p. 428 *seq.*, especially pp. 440, 444, and Rhodes, *Hist. of United States*, vol. vi. p. 351.

[2] *Hansard*, vol. ccix. p. 5.

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was paid at the time to the language of the speech. It was accepted with a sigh of relief by all reasonable men. A step had at last been taken to terminate a difficult controversy. Mr. Disraeli, indeed, complained of the language habitually used by 'persons of high official authority' in America: he expressly mentioned Mr. Sumner's speech and the President's message, and he hinted that, if our military and naval establishments were placed on a proper footing, this 'rowdy rhetoric addressed to irresponsible millions would cease.'[1] But neither Mr. Disraeli nor any other member of Parliament condemned the Commission. It was accepted by men of both parties as the best possible means of overcoming a difficulty which was embarrassing two kindred nations, and which might imperil, in certain circumstances, the peace of the world. It proceeded without delay to enter on its duties, and it held its first sitting on the 8th of March—the eve of the removal of Mr. Sumner from the chairmanship of the Foreign Relations Committee.[2]

The Washington Commission.

The constitution of the Commission increased the feeling in its favour. The chief place on it was entrusted to Lord de Grey, who had risen to high office in the Palmerston Administration of 1859, and who had been made President of the Council on the formation of Mr. Gladstone's Ministry. But the second place on it was offered to and accepted by Sir Stafford Northcote, one of the fairest and most trusted of Mr. Disraeli's followers, a man who had begun life as private secretary to Mr. Gladstone himself, and who, remaining in the Tory fold after

[1] *Hansard*, vol. ccxv. pp. 90, 92.

[2] Pierce, *Life of Sumner*, vol. iv. p. 432.

his old chief had retired from it, had risen to high office in the Tory party.[1]

The Commission was instructed to discuss in a friendly spirit with the Commissioners appointed for the same purpose by the United States, 'the various questions which had' arisen between us [the Queen] and our good friends the United States of America, and of treating for an agreement as to the mode of their settlement. Thus the Commission was made comprehensive in its scope, but was limited in its powers. It could discuss every question which had arisen between the two countries, it could settle none of them; it could only decide the method by which they should be settled.

The men who were selected by the United States to meet Lord de Grey and his colleagues were Mr. Fish, the Secretary of State; General Schenck, who had been appointed to succeed Mr. Motley as Minister in London; Mr. Nelson, a Judge of the Supreme Court; Mr. Hoare, who had acted as Attorney-General in General Grant's Cabinet. The British Commissioners were authorised to make at the outset a concession to American feeling by expressing, 'in a friendly spirit, the regret felt by her Majesty's Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations

[1] Seats on the Commission had been successively refused by Lord Derby, Sir George Grey, and Lord Halifax. Sir E. Thornton, our Minister at Washington, Sir John Macdonald, the Canadian statesman, and Mr. Mountague Bernard, Professor of International Law at Oxford, were the other members of the Commission. The Commission is set out in full in the Appendix to *Hansard*, vol. ccix. p. 2047; cf. Morley's *Life of Gladstone*, vol. ii. p. 401. Oddly enough, Mr. Morley has overlooked the fact that Mr. Rose actually went to Washington in December 1870. The Treaty of Washington is printed in *State Papers*, vol. lxi. p. 40.

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The Treaty of Washington.

committed by these vessels.' And this concession, which cost so little and meant so much, was incorporated in the treaty, and facilitated the future progress of the proceedings. It was decided to refer all the claims 'generically known as the Alabama claims' to five Arbitrators appointed by the United Kingdom, the United States, Italy, Switzerland, and Brazil; that the Arbitrators in arriving at a decision should assume that a neutral Government is bound (1) to use due diligence to prevent the fitting out, arming, or equipping within its jurisdiction of any vessel which it has reasonable ground to believe is intended to cruise or carry on war against a power with which it is at peace; (2) not to permit either belligerent to make use of its ports or waters as the base of naval operations against the other;[1] (3) to exercise due diligence to prevent the infraction of these rules. Other claims arising out of the war, made by the subjects or citizens of one country on the Government of the other, were similarly ordered to be referred to a Commission of three members appointed by the Queen and the President; and as to the third, in failure of agreement, by the representative in America of the King of Spain.

The other matters in dispute between the two countries were dealt with at the same time. It was

[1] The words of the rule were larger than those in the text. For they bound the neutral Government not to permit its harbours to be used 'for the purpose of the renewal or augmentation of military supplies or arms.' But, on Sir R. Palmer's remonstrance that these words went much further than the requirements of international law, the Government of the United States consented to apply the rule only to vessels intended to carry on war, and not to the exportation of arms or supplies. See *Memorial: Personal and Political*, vol. li. pp. 221–224.

agreed, for example, that for ten years, and further until the expiration of two years after either party had given notice to the other of its intention to terminate the arrangement, American fishermen should have liberty to take fish in the seas and to cure fish on the coasts of British North America, and that British fishermen should have equal liberty to fish in the seas and cure fish on the coasts of the United States, north of the 39th parallel; and since the British asserted, and the Americans denied, that the right of fishing thus conceded by England was more valuable than that surrendered by the States, Commissioners were appointed to determine the amount of any compensation which the Americans should pay for the privilege. It was further agreed that the navigation of the St. Lawrence, north of the 45th parallel, should be free to the citizens of the United States, and that the navigation of the Yukon, Porcupine, and Stikine Rivers should be similarly free to the subjects and citizens of both countries. Certain lands in either country were placed at the disposal of the people of the other for a period of ten years. The waters of Lake Michigan were opened to Canadian commerce, and Canada and the United States reciprocally undertook to levy no transit dues on commodities passing from the ports of one country to the markets of the other. Finally, the San Juan Boundary dispute was referred to the arbitration of the German Emperor.

Criticisms of the Treaty in the United States.

The treaty which was thus concluded was not accepted with entire unanimity on either side of the Atlantic. In America the people's expectations had been raised by the exaggerated claims which Mr. Sumner had formulated. The influence of this

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Senator was felt at every meeting of the Commissioners. Mr. Fish, indeed, obviously alluding to Mr. Sumner's memorandum of January, actually threw out a hint to Lord de Grey that the cession of Canada might end the quarrel.[1] And the American and British Commissioners were equally apprehensive of what the Senate might do under the influence of the late chairman of the Committee of Foreign Relations. Happily Mr. Sumner, though he disliked the settlement as inadequate, hesitated to assume the responsibility of rejecting the arrangement. The Senate approved what the Commissioners had done, and a step was apparently taken for finally removing the causes which were separating the two great Anglo-Saxon nations.

In England.

On the British side of the Atlantic the words of the treaty provoked more criticism. It was argued that it was unfair that the conduct of the British Government should be judged by *ex post facto* rules;[2]

[1] 'Lord de Grey contented himself with the dry remark that he did not find such a suggestion in his instructions.'—Morley, *Life of Gladstone*, vol. ii. p. 40. It may be added that the British Commissioners had the wisdom to maintain intimate social relations with Mr. Sumner during their stay at Washington. *Life of Sumner*, vol. i. pp. 488, 489. Sir R. Palmer (Lord Selborne), who had been one of the Law Officers under Lord Palmerston at the time of the escape of the Alabama, argued that the rules did not go further than 'that construction of the Foreign Enlistment Act, on which the Law Officers of the Crown insisted and always advised the Government to act.' See his letter to Lord Russell in *Memorials Personal and Political*, vol. i. p. 217.

[2] It could be pleaded, on the other hand, that the British Government, on the outbreak of the Franco-Prussian war, at once introduced a new Foreign Enlistment Act, with the express object of preventing the repetition of such scandals as had been involved in the escape of the Alabama, or in the legal decision on the Rams. See for this measure *Hansard*, vol. ciii. p. 1365, and 33 & 34 Vict. c. 90. The Act, though hurriedly introduced after the outbreak of war, was largely based on the Report of a Royal Commission which reported in 1868. *Parl. Papers*, 1868; cf. Morley, *Life of Gladstone*, vol. ii. p. 399.

that it was unjust that the people of Canada, who had suffered from the effects of the Fenian raid which had taken place after the war, should be excluded from preferring claims for compensation for their losses. It was objected that the reference to the German Emperor on the San Juan Boundary dispute compelled him to select either the channel near the American shore which was demanded by the British, or the channel near the British shore which was adopted by the Americans, and prevented him from selecting some intermediate channel or line which would possibly have been more consistent with the intention of the treaty.[1] These two last points specially affected the Canadians; and undoubtedly an impression was produced in the Dominion that its own interests had been sacrificed to the desire of the home Government to arrive at an understanding with the States; and the assent of the Government of Canada to the treaty was only finally procured by this country undertaking to guarantee a loan of 2,500,000*l.* to be devoted to the construction of a railway to the Pacific, and to other improvements in the colony.[2] The fact that it was found necessary to purchase the consent of Canada did not tend to reconcile opinion in this country to the provisions of the treaty. But if in Canada men chiefly criticised the omissions of the treaty,[3] in this country fault was found with its sins of commission. It was objected

[1] See Lord Russell's *Recollections and Suggestions*, p. 295.

[2] *Hansard*, vol. ccx. p. 1934.

[3] The failure of the treaty to make any provision for the losses from the Fenian Raids was due to the refusal of the American Government to include these losses in the references. See Lord Russell's comment on this point in *ibid.* vol. ccvi. p. 1827, and cf. the *Times*, 31st December, 1871.

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that the English Commissioners had consented to insert in the treaty an expression of regret—an apology, as it was called—for the escape of the Alabama.[1] It was objected still more strongly that, in submitting to be tried by rules which were not in force at the time of the Alabama's escape, this country was making an unnecessary and unworthy concession to American clamour. The very language in which the concession was made emphasised the contention that it was unreasonable,[2] while the fact that it was made by the same Ministers who were concurrently allowing one of the provisions of the Treaty of 1856 to be modified at the dictation of Russia, made it more distasteful to a proud and sensitive people.

Yet, in the clear search-light of history, the conduct of the men who made these concessions seems wise and sane, when it is contrasted with the language of the men who resisted them. The embodiment of an expression of regret in the treaty did probably more to improve the relations between two great nations than all the payments subsequently made under the award of the Arbitrators, and the arguments against the new rules themselves turned chiefly on sentiment. If, indeed, it was admitted that it was the duty of a neutral nation to prevent the construction and equipment of vessels of war for the use of a belligerent—and the Parliament of England

[1] See Lord Derby in *Hansard*, vol. ccvi. p. 1856.

[2] 'Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that H.M.'s Government cannot consent to the foregoing rules as a statement of principles of international law which was in force at the time when the claims mentioned in Article I. arose; but that H.M.'s Government, in order to evince its desire of strengthening the friendly relations between the two countries,' &c., &c. Art. 69, Treaty of Washington, *Parl. Papers*, 1872, North America, No. 2, p. 5.

had recognised this duty—the rules by which it was agreed that the Arbitrators should be bound followed almost as a matter of course. The rules, indeed, required the Government to act on reasonable suspicion, while, in carrying out the law, it might be argued that it was only necessary—that it was only possible—to act on proof. But even this distinction had no material significance in the case of the Alabama. For it was admitted on all sides that the evidence which Mr. Adams had produced respecting the vessel was sufficient to justify her detention. Sir R. Collier and the law officers by their advice, and Lord Russell by his action, had shown that she ought to have been detained. The unfortunate delay arising from the illness of the Queen's Advocate may have facilitated her escape; but the responsibilities of Great Britain to another nation could not be affected by the circumstance that an eminent and amiable lawyer lost his reason at a most critical moment.

The more, then, the case is examined, the more apparent it becomes that, if the British Government decided to refer the claims of United States citizens to arbitration, there was no practical reason for refusing to be bound by the rules which were laid down at Washington. Sentiment might object to the surrender, but common sense was in favour of the settlement. Yet another danger lurked within the four corners of the treaty, which was hardly detected in the spring or summer of 1871; and this danger had its origin in the laudable desire, which the Commissioners on both sides had displayed, to arrive at an agreement. They had been so anxious to adopt words which they could both subscribe

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that they paid too little attention to the possible meaning which could be read into the words which they adopted. Yet few occasions had ever arisen on which it was more desirable that the meaning of a public document should be plain and clear. There was no doubt that from the beginning to the end of the controversy the Government of the United States had taken a larger view of the claims which it was pressing on this country than the warmest friends of arbitration could be brought to admit.[1] For while every one in the United States was prepared to assert that Great Britain was liable for the cost incurred in the pursuit of the Alabama, and while some people were prepared to contend, as Mr. Sumner did, that she was liable for the expense involved in the prolongation of the war, no responsible person on this side of the Atlantic could admit a liability for anything except the losses actually inflicted by the Alabama and her consorts on American vessels.[2] On one side, in short, there was a disposition to refer to arbitration the direct losses of individuals, on the other side there was a desire that the expenses to which the United States had indirectly been subjected should go before the Arbitrators.[3] And the difference, at the time, was probably irreconcilable.[4] For in England no Ministry could have remained in office for a week which had consented to refer the larger claim of the Americans, while in America no President—however illustrious—who had consented to exclude them could have

[1] See Lord Russell's *Recollections and Suggestions*, p. 395.
[2] *Hansard*, vol. ccvi. p. 1823.
[3] *Ibid.*, p. 1854.
[4] For Lord Oranmore's motion in the Lords, *ibid.*, vol. ccvii. p. 729. For the silence of the House of Commons, *ibid.*, vol. ccviii. p. 861.

avoided defeat at the next contest for the Presidency. In the negotiations at Washington, the utmost ingenuity had been displayed in discovering some form of words which could be regarded as satisfactory by both parties to the dispute. The words which were ultimately adopted were approved by the Cabinet in London, and Mr. Gladstone and his colleagues, not Lord de Grey and his fellow-Commissioners, must be held responsible for them.[1]

Unquestionably the British Commissioners carried away from Washington a belief that the greater part of the indirect claims had been withdrawn. Lord Ripon's language in the House of Lords —for Lord de Grey had been promoted to the Marquisate of Ripon for the services which he had rendered at Washington—Sir Stafford Northcote's language in the House of Commons, and Sir E. Thornton's language at New York,[2] leave no doubt on this point, and no one on either side of the Atlantic ventured even to hint that the words of these men were open to suspicion. The fact, moreover, that the British Government deliberately consented to refer to the Arbitrators the claims which the Government of the United States had made for the expense of pursuing the Alabama and her sister vessels, to a certain extent supported their contention.[3] The mere fact that this concession was

[1] Mr. Forster says distinctly: 'The Cabinet are responsible, for we discussed every word.' *Life of Forster*, p. 333. Mr. Morley says: 'The British Commissioners were almost as much embarrassed by their friends at home as by their friends or foes at Washington. Both ministers and lawyers, from the safe distance of Downing Street, were sometimes excessive in pressing small and trivial alterations.' *Life of Gladstone*, vol. ii. p. 402.

[2] *Hansard*, vol. ccviii. p. 900; *Mr. Fish and the Alabama Claims*, pp. 90, 91.

[3] For Mr. Gladstone's observations on this point, *Hansard*, vol. ccix. p. 83.

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admitted showed that it was understood that the much larger concession which the Americans claimed was not admitted. But on the other hand it must be allowed that some of the men who represented America at the Conference, and who were no less honourable than Lord de Grey and Sir Stafford Northcote, came away from it with a contrary conclusion; and perhaps it is fair to conclude that the difference of opinion arose, not from any lack of straightforwardness on either side, but from the constraining desire to arrive at an agreement, which made each side anxious to devise some words which the other could accept.

The words of the treaty itself were wide enough to cover a good deal of the American case. For the meaning of 'claims growing out of acts committed by the aforesaid vessels,' and generically known as the Alabama claims, could hardly be said to be confined to the acts themselves. The President of the United States held, in perfect honesty, that the indirect claims were within the treaty.[1] Mr. Gladstone himself admitted that the cost of pursuing the Alabama and her consorts was within the treaty,[2] and Lord Cairns, who argued the case with great moderation in Parliament, contended that, if the Prime Minister was right, there was an end to the argument that nothing was 'referred to arbitration beyond the special damage done by each particular ship.'[3] So far, therefore, as the words of the treaty were concerned, there was nothing which could show

[1] *Hansard*, vol. ccxii. p. 992.

[2] *Ibid.* vol. ccix. p. 83. In the American case laid before the Commission this cost had been included among the direct claims. But the fact does not affect the argument as to what the words of the Treaty covered.

[3] *Ibid.*, vol. ccxi. p. 482.

decisively that the indirect claims were excluded from the reference. The British Government, however, mainly relied, not on the words of the treaty, but on the language of the protocols which led up to the treaty. One of these, which set out the proceedings of the Commissioners on the 8th of March, was of special importance. The American Commissioners on that day had referred to the injury done to the United States by the escape of the Alabama, had declared that the loss and destruction of private property had already been ascertained to amount to 14,000,000 dollars, and that a further direct loss, the cost of which to the United States could easily be ascertained, had been sustained by the pursuit and destruction of these formidable cruisers. They had gone on to show that, in addition to the direct losses, the United States had sustained 'an indirect injury in the transfer of a large part of the American commercial marine to the British flag, in the enhanced payments of insurance, in the prolongation of the war, and in the addition of a large sum to the cost of the war, and to the suppression of the rebellion.' But they had added that, in the hope of an amicable settlement, no estimate was made of the indirect losses; without prejudice, however, to the right to indemnification on their account in the event of no such settlement being made.[1]

The English members of the Commission undoubtedly considered that, in assenting to these words, their American colleagues had waived the indirect

[1] *Parl. Papers*, 1872. The protocol is reprinted by Mr. Bancroft Davis in the Appendix to *Mr. Fish and the Alabama Claims*, pp. 149-151.

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claims. It is obvious, however, that—so far as language goes—they had done nothing of the kind. For to say that in the hope of an amicable settlement you make no estimate of a particular loss, is quite a different thing from saying that you waive that loss. The result of a lawsuit, moreover—and the reference to arbitration was practically a lawsuit—cannot be regarded as an amicable settlement; while the decision of a legal tribunal on one set of claims cannot in any circumstances constitute a settlement of another set of claims.

If, then, the rights and wrongs of an international controversy are to turn on the proper construction of language, a good deal more may be said for the American view of a famous dispute than ordinary English writers are accustomed to admit. But if the argument be raised from the mere technical construction of words to a little higher plane, the strength of the English case becomes more apparent. For there can be no doubt that the English members of the Commission left Washington under the impression that the indirect claims had been withdrawn; and there can be hardly a doubt that the American members of the Commission suffered them to remain under this misapprehension. It is at any rate certain that Lord Granville, speaking as Secretary of State in the House of Lords, declared that the indirect claims had entirely disappeared 'under the limited reference';[1] and that neither the American Ambassador in London, nor the American Government in Washington, took any step to remove the misapprehension into which—from an American point of view—it was plain that he had fallen.

[1] *Hansard*, vol. ccvi. p. 1852.

Lord Granville may have possibly been a little too ingenuous—Mr. Fish could not be described as a little too frank.

It was arranged at Washington that 'the case' of each of the two parties should be delivered to the Arbitrators within six months of the ratification of the treaty, and that within four months after the delivery of the case each of the two parties should have the opportunity of putting in a counter case. As the treaty was ratified on the 17th of June, it followed that the 'cases' had to be delivered before the 17th of December, and the counter cases before the 17th of April, 1872. The Arbitrators, therefore, met for the first time, at Geneva, in the middle of December.[1] The King of Italy had selected as his representative Count Sclopis—a man whose knowledge of law, and whose distinction as a judge, qualified him to preside over any legal tribunal. The Emperor of Brazil deputed Viscount Itajuba—his Minister at Paris—to represent him; while the choice of the President of the Swiss Confederation fell on M. Staempfli, a prominent politician but not an impartial man.[2] The United States selected Mr. Adams, who had played so important a part in the history of the Alabama, as their representative; while this country chose Sir Alexander Cockburn, the Chief Justice of England, entrusting Sir Roundell Palmer with a brief as its counsel. Perhaps in all England it would have been difficult to find a man more fitted to fill Sir Alexander's place on the

[1] The *Times* records the first meeting in its issue of 19th of December, 1871.

[2] For M. Staempfli see *Life of Lord Granville*, vol. ii. p. 101, where there is a very unfavourable account of him by Lord Tenterden.

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tribunal than the cool and careful lawyer who by an odd arrangement was instructed to plead before it,[1] while it would have been equally impossible to select any one so well suited to play Sir Roundell Palmer's part as the eloquent judge whose familiarity with the French language made him as capable of arguing his country's case in French as in English. Yet at this preliminary meeting the Arbitrators had little notice of the difficulties which lay still undetected in their path. After the papers had been put in and exchanged, they sat listening round the fire to Sir Alexander Cockburn's account of the strange history of the Tichborne trial, in which he himself had taken so prominent a part.[2] 'The sun was well down the horizon when he began his statement.' Darkness had supervened before he finished his picturesque story; and the Arbitrators parted in the best of spirits, and apparently with the best of hopes.[3] For a fortnight after this friendly gathering every one shared the hopes of the Arbitrators. Even official persons were so satisfied with the results of the Treaty of Washington that no one seemed to think it necessary to study the American case. Neither the Prime Minister himself, nor any member of his Cabinet, seems to have looked at it for a fortnight

[1] Sir A. Cockburn's judgment is a vigorous defence of the British case. But, one-sided as it appears now, it was apparently originally much stronger, as its author, on Lord Granville's appeal to him, consented 'to modify what he had written on the provisions of the Treaty.' *Life of Lord Granville*, vol. ii. p. 103.

[2] I have not thought it necessary to allude elsewhere to this famous trial, which filled so many columns of the newspapers and occupied so much of the people's thoughts in 1871 and 1872. It is, perhaps, a striking instance of the fact that things of transcendent importance to our generation are of no account at the Bar of History.

[3] Bancroft Davis, *Mr. Fish and the Alabama Claims*, p. 89.

after its arrival.[1] At last the enterprise of the newspaper Press discovered what the Cabinet had not taken the pains to read. It announced that the indirect claims, which all England thought had been withdrawn, had reappeared. Mr. Bancroft-Davis, who had acted as secretary to the Commission at Washington, and who had been employed by Mr. Fish to prepare the American case, had inserted in it all the claims for indirect damages which the English Commissioners had persuaded themselves had been finally withdrawn on the preceding 8th of March. The news created a feeling of excitement which it is difficult to exaggerate. It must be recollected that, only a few months before, Germany had exacted a penalty of five milliards (200,000,000*l.*) from France as an indemnity or punishment for the war of 1870, and now America was making a claim which might easily be translated into a higher sum than 200,000,000*l.* upon England, and was seeking to enforce it from a country which, unlike France, had not fought or lost a battle. It was no wonder that Mr. Disraeli, recalling a phrase of Lord Derby in the previous year, spoke of the 'wild and preposterous demand,'[2] and that Mr. Gladstone declared them to be claims 'which not even the last extremities of war, and the lowest depths of misfortune, would force a people with a spark of spirit to submit to at the point of death.'[3] Unusual as Mr. Gladstone's language was, it has been justified by the criticism of a sane American: 'Of course it does not need to be said that no nation, not wholly crushed and helpless, would, any more than an individual, submit

[1] *Hansard*, vol. ccix. pp. 84, 85.

[2] *Ibid.*, vol. ccix. p. 70.

[3] *Ibid.*, p. 86.

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to be mulcted in this fashion. The proposal was an insult, and its discussion would be a humiliation.' [1]

Happily, if Mr. Gladstone's spoken speech was strong, the action of the Cabinet was friendly. The Queen, in opening Parliament, was advised to say :—

'Cases have been laid before the Arbitrators on behalf of each party to the treaty. In the case so submitted on behalf of the United States, large claims have been included which are understood, on my part, not to be within the province of the Arbitrators. On this subject I have caused a friendly communication to be made to the Government of the United States.' [2]

In the communication to which the Queen thus referred, Lord Granville distinctly intimated that, 'according to the holding of her Majesty's Government, the indirect claims were not included within the limits of the reference.' Mr. Fish, on the contrary, maintained that, 'according to the view of the Government of the United States, the whole subject was a fit and proper one to be argued before the Arbitrators at Geneva.' [3] The President, however, considered that, though he could not withdraw the claims, he might undertake not to press for compensation in respect to them. Originally he seems to have been inclined to give the undertaking in an interchange of Notes. Later on he came to the conclusion that he could not give this pledge

[1] *Life of Adams*, p. 385.

[2] *Hansard*, vol. ccix. p. 4. After the speech had been agreed upon, Mr. Gladstone wanted to substitute the stronger word 'held' for the broader word 'understood' in this paragraph. Mr. Forster, however, seems to have refused his assent to the amendment. *Life of Forster*, p. 351.

[3] See Mr. Gladstone's speech, *Hansard*, vol. ccxii. pp. 655, 657.

without the assistance of the Senate, which in the United States is a part of the treaty-making power. The Senate, unluckily, modified the supplemental article or treaty which was laid before it.[1] And when the 15th of June arrived, the date on which the Arbitrators were to meet, the difference was still unsolved and apparently insoluble.

Public opinion on either side of the Atlantic was, unfortunately, opposed to compromise. Men of British extraction, indeed, whether they live under the Union Jack or the Stars and Stripes, have a distinct dislike to giving up anything. In England they were prepared to maintain the untenable position that the States had no true ground of complaint against this country. In America they were ready to adhere to the equally untenable contention that the escape of the Alabama and her consorts had saddled this country with a liability for all the losses either directly or indirectly sustained by American commerce through their depredations, and for all the expenditure which the United States Government had incurred for their capture, and through the prolongation of the war. The Press in both countries wrote strongly. The excitement which was visible in the Press was reflected in Parliament. Night after night questions were addressed to Ministers on the dispute and its progress, and formal resolutions were proposed—one of them on the high authority of Lord Russell—

[1] *Hansard*, p. 1035. For the supplemental article see *Parl. Papers*, 1872, North America, Nos. 8 and 9. Mr. Rhodes thinks that the British Ministry might have accepted the modification, and Mr. Rhodes is a singularly friendly critic of this country, though he is hardly aware of the intense feeling which prevailed in England at the time. *Hist. of United States*, vol. vi. p. 370.

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praying that the proceedings at Geneva might be suspended until the indirect claims were withdrawn.[1]

Happily, while irresponsible opinion was working for a rupture, responsible statesmen on either side of the Atlantic were sincerely anxious to save the treaty. The President of the United States, his Minister, Mr. Fish, and the American representative at Geneva, Mr. Adams, were just as anxious for a settlement as Lord Granville or Mr. Gladstone. But their difficulties were undoubtedly great. While despatch after despatch was crossing the Atlantic; while the cable—still in the first five years of its existence—was throbbing with the messages which the electric current was carrying from London to Washington, and from Washington to London;[2] the Ides of March were steadily approaching. Under the terms of the treaty the two Governments were to place on record in April their answer to the cases which had been filed in the previous September; the Arbitrators were to meet in Geneva in the following June. April came; and the British Government in lodging its counter-case made a formal declaration that it was strictly confined to the claims for direct losses, and that it did not admit that 'claims for indirect losses were within the scope or the intention of the reference to arbitration.'[3] June arrived; and the two Governments had arrived at no understanding on the words of the supplemental article which

[1] The questions are scattered throughout *Hansard*, vols. ccviii. to ccxi. For Lord Russell's motion *ibid.*, vol. ccxi. p. 1095.

[2] See Mr. Gladstone's statement, 'the House will recollect that I am now upon a series of communications which have been conducted entirely by telegraph,' and his observation on the convenience and inconvenience of telegraphic diplomacy. *Ibid.*, p. 658.

[3] *Parl. Papers*, 1872, North America, No. 5, pp. 3, 4.

had been devised to save the treaty. Sir Alexander Cockburn himself, when he set out for Geneva, regarded the treaty as 'dead.' It is said, indeed, that he thought its resuscitation so hopeless that he did not think it worth while to put himself 'to the inconvenience of making a study of the case.' [1]

At this hour, however, when the Ides of March were almost ended, the American representative on the tribunal found a way out of the difficulty. Always opposed to the indirect claims, Mr. Adams was naturally in favour of the remedy which the supplemental article had endeavoured to provide. He had now the dexterity to see that the Arbitrators themselves might do what the supplemental article had proposed to do in another way. The supplemental article, if it had been accepted, would not have withdrawn the indirect claims of the treaty, but would have pledged the executive of the United States not to press for their settlement. And Mr. Adams now suggested that, while the supplemental claims might remain before the Arbitrators, the Arbitrators might themselves express an opinion adverse to their admissibility. On his motion the Arbitrators undertook to say that they had 'arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law, good foundation for an award of compensation as between nations, and should upon such principles be wholly excluded from the considerations of the tribunal.' [2]

[1] *Life of Adams*, p. 393.

[2] *Ibid.*, p. 394; *Parl. Papers*, 1872, North America, No. 10, p. 5: cf. *Memorials Personal and Political*, vol. i. pp. 236 *seq.*

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This declaration virtually settled the dispute. The representative of the United States intimated that the President accepted the tribunal's opinion, and that consequently the indirect claims would not be further insisted upon. The British Government, two days later, naturally assented to an arrangement which was in conformity with its own contention, and the Arbitrators were thus enabled to address themselves to the task of deciding the issues which both Governments were agreed should be referred to them.[1]

For the next few months the Arbitrators busily addressed themselves to their task. The direct claims which the United States advanced were for losses sustained by the depredations of the Alabama, the Florida, the Shenandoah, the Sumter, the Georgic, the Tallahassee, the Chickamanga, the Retribution, and certain other smaller vessels. The claims which the Arbitrators allowed were those relating to the losses sustained through the first three of these vessels. In the case of the Alabama the Arbitrators were unanimously of opinion that Great Britain had 'failed by omission to fulfil the duties prescribed by the first and the third of the rules established by the seventh article of the Treaty of Washington,' though Sir Alexander Cockburn, the Arbitrator appointed by the Queen, arrived at this conclusion on grounds differing from those given by his colleagues.[2] By a majority of four votes to one vote—Sir Alexander Cockburn dissenting—the Arbitrators arrived at the same conclusion respecting the Florida;[3] and finally

[1] *Parl. Papers*, 1872, North America, No. 10, pp. 6, 7.

[2] *Ibid.*, 1873, North America, No. 2, pp. 3, 258.

[3] There are some remarks of Lord Selborne in the case of the Florida in *Memorials Personal and Political*, vol. i. p. 264, which are worth referring to.

the Arbitrators, while unanimously of opinion that this country had not failed to fulfil any duties prescribed either by the Washington Rules or the principles of international law in the case of the Shenandoah during the earlier part of her career, declared, by a majority of three votes to two,[1] that the authorities at Melbourne, after her arrival at that port, had been guilty of negligence which rendered this country liable for the depredations which she subsequently caused. The tribunal went on to affirm that there was no ground for awarding to the United States any sum for the expense in pursuing these vessels, which they declared to be not distinguishable from the general expenses of the war; they similarly declined to award any sum for the prospective earnings of the vessels which had been captured; and they finally decided, by a majority of four votes to one, that Great Britain should pay an indemnity of 15,500,000 dollars in gold—the amount, including 'interest at a reasonable rate,' at which they assessed the damages which the three vessels had inflicted.[2]

So ended one of the most famous incidents in the history of the nineteenth century. There is no question that the award was a liberal one. The Government of the United States, indeed, found some difficulty in disposing of the money. 'For four years it lay in the Treasury vaults, piling up interest at 5 per cent., till it amounted to 20,000,000 dollars.'[3] It is understood that even at the end of the century some

[1] Viscount Itajuba voted with Sir A. Cockburn on this case, *Memorials Personal and Political*, vol. i. p. 255.

[2] *Parl. Papers*, 1873, North America, No. 2, p. 5.

[3] Adams, *Hist. of the United States*, vol. ii. p. 228.

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of the money remained undisposed of in the hands of the American Government.[1]

'If the Government of the United States found some difficulty in disposing of the great sum which the Arbitrators awarded to it, this country found no difficulty in raising it. The actual cost was spread over the revenue of two years, one-half the sum, or 1,600,000*l.*, being temporarily borrowed in 1873, and repaid in 1874. The other moiety, actually charged to the service of 1873, hardly made any appreciable effect on the Budget. A period of unusual prosperity was, in fact, promoting consumption, and financiers were pleased to boast, and temperance reformers were shocked to note, that the people had 'drunk themselves out of the Alabama difficulty.'[2] The necessity for its provision did not even prevent the Chancellor of the Exchequer from sweeping away at the same time the duty on sugar—'the delight of children and the solace of age.'[3]

The mere amount of the indemnity, however, was comparatively of small importance. It was the principle, and not the size of the payment, which attracted attention. Men there were who thought that the honour of the country had been sacrificed to the desire to purchase American good will, and that a firmer minister would have resisted the claims of the United States, or at any rate refused to refer the conduct of his predecessors to the decision of foreign Arbitrators. The not unnatural annoyance which Lord Russell felt induced him to lend the shelter of his authority to this contention. Mr.

[1] Goldwin Smith, *The United States*, p. 294.

[2] *Hansard*, vol. ccxv. p. 675.

[3] *Ibid.*, p. 665.

Gladstone and Lord Granville—so he complained—'seemed to be quite unaware that the United Kingdom is a great country, and that its reputation ought to be dear to every British heart.'[1] The light-hearted manner in which some members of the Administration spoke both of the arbitration and award seemed to justify or excuse this feeling. Mr. Lowe, for example, in moving the Budget of 1873, said of the payment: 'It has never happened to us before, although I am quite willing to say I hope it may happen again'; or, as he immediately afterwards was forced to explain, 'I hope the chance of it may happen again by the reference of some future difference which may arise to arbitration.' Unfortunately the wise men, and they are among the wisest of men, who endeavour to maintain peace on earth by using conciliatory language, too frequently make the mistake of supposing that, in framing words to conciliate other nations, they are under no corresponding necessity to regard the feelings of their own.

When, however, the question is raised out of the contentions with which it was immediately surrounded, the wisdom of the policy which Mr. Gladstone and his colleagues pursued will hardly require an apology. By the universal opinion of all the Arbitrators, including the representative of this country, Great Britain was to blame. Being to blame, it was only reasonable that she should consent to refer the extent of her blame to some neutral minds. In doing so, she set an example which it is to be hoped may endure. Instead of obstinately refusing satisfaction, or leaving her antagonists to

[1] *Recollections and Suggestions*, p. 407.

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seek the remedy of war, she showed that, so far as one class of disputes was concerned, arbitration, and not war, is the remedy to which civilised nations may resort. And those who still believe that of all the ills which afflict humanity war is the greatest and most to be deplored, will give hearty thanks to Almighty God that in this instance, at the least, He put it into the hearts of the rulers of two great and kindred nations to adopt means of avoiding it.

CHAPTER XV.

THE DECLINE OF MR. GLADSTONE'S MINISTRY.

In relating the history of the Conference of London, and of the Washington Treaty, it seemed desirable to bring down the narrative to the first scene in Geneva, so that the reader might have before him a connected story of the policy and its consequences. But it must be recollected that when Parliament met for its third session in February 1871 the London Conference was still sitting, the Peace of Versailles was still unconcluded, and that Lord Ripon and his fellow-Commissioners had not commenced their labours in Washington. Yet if the people were still unmoved by the excitement which the Washington Treaty was to raise, the Ministers were no longer supported with the enthusiasm which had swept them onward to victory in 1869 and 1870. On the benches below the gangway the Nonconformists were sullenly resenting the concessions which Mr. Gladstone and Mr. Forster had made to the Church. On the benches above, the Ministers themselves, old-fashioned Liberals, were hardly concealing their dissatisfaction at the humiliating part which—as they thought—England was playing in the Conference of London. Without inquiring too closely whether the policy in 1856 was not responsible for

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the Russian circular of 1870, they were longing for one hour of Lord Palmerston to deal with the crisis.

The events of the Franco-German war, moreover, were unfavourable to the Ministry of Mr. Gladstone. Men felt instinctively that he was a minister of peace, and they were concentrating their whole attention on the tragic incidents of a great war. They were asking themselves at the club, at the dinner-table, and in the street whether England was strong enough, either on shore or on sea, to hold her head high in the new circumstances which were gathering around her. They were questioning the wisdom of the reduction which Mr. Childers and Mr. Cardwell had made. The fact, indeed, that Mr. Cardwell himself was asking for the means of increasing the army, was throwing doubt on his economies. Was it worth while reducing the army and navy estimates in 1869 and 1870, if they were to be again increased in the later months of 1870 and in 1871? It was not quite certain that the reduction which had been made had led to any increase in the prosperity of the nation. On the contrary, pauperism was steadily increasing in a measure which was exciting alarm. On the 1st of January, 1866—the year which followed Lord Palmerston's death—there were 920,344 persons in receipt of relief in England and Wales; on the 1st of January, 1869, there were 1,039,549 paupers; on the 1st of January, 1871, there were 1,081,926. The figures in London were even more melancholy. In the last week of December 1870 there were no fewer than 147,165 persons in receipt of relief in the metropolis alone.[1] It may, perhaps, make the meaning of

[1] The figures will be found in the *Times*, 4th of January, 1871.

these figures clear if it be added that in the next thirty-three years the population of the metropolis was destined to grow from 3,215,000 to 3,955,800, while the pauper roll simultaneously fell to about 102,000.

The dissatisfaction which was expressed in society was reflected in a feeling of sullen discontent among the masses. And this discontent was nowhere more apparent than in the south and east of London. In 1868 the great constituency of Greenwich had done itself the honour, unasked and unbidden, to choose Mr. Gladstone as its representative. It had provided him with a convenient haven and reversed the verdict which Lancashire at the same moment had pronounced. But it so happened that Greenwich had felt the full pressure of the changes which Mr. Gladstone's colleagues had effected. The Government dockyard at Deptford had been closed, and, however wise and necessary the decision to close it may have been, it was hardly reasonable to expect that it would commend itself to the Greenwich electors. Galled by the disestablishment of its dockyard, annoyed by the somewhat marked neglect with which Mr. Gladstone had treated his new constituents, the electors of Greenwich took the step of addressing to him a remonstrance, and calling on him to resign a position which he had shown himself unworthy to fill. Thus the very borough which had returned him unasked at the end of 1868 asked him to retire from its representation at the beginning of 1871.[1]

The conduct of Greenwich may perhaps be explained, if it cannot be excused. The melancholy

[1] *Ann. Reg.*, 1871, Chron., pp. 1, 15.

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increase of pauperism in London accounted for so striking a revulsion of opinion; and it was hardly to be expected that the working men of Greenwich should realise that the increase had been partly attributable to defective administration; for the improvement in the returns, which was subsequently to come, was undoubtedly due to the wiser laws and stricter system that were to be immediately adopted. But the people had not learned in 1871—perhaps they have not yet learned—that bad administration and indiscriminate charity create the poverty which they are intended to relieve, and they were disposed to impute the dearth of employment—or at any rate the dearth of employment in London—to the retrenchments of Mr. Childers, who was closing dockyards and thus reducing the demand for labour. It happened, moreover, that an accident, for which Mr. Childers was hardly responsible, threw discredit on the administration of the Admiralty. For in 1870 a battleship of a novel pattern, the Captain, foundered on an experimental cruise, and attempts were made to hold Mr. Childers responsible for the disaster.

Ever since the termination of the Crimean war attention had been directed to the construction of armoured vessels. The Gloire, the first ironclad vessel, was launched in France in 1860; and was succeeded later in the year by the Warrior in England. But, even before the construction of these vessels, a naval officer, Captain Cowper-Coles, who had served with some distinction in the Crimea, had suggested that the warship of the future should be a vessel with a low freeboard, offering, there-

fore, a small objective to the enemy's fire, surmounted with an armoured turret from which her guns should be fought. The technical advisers of the Admiralty refused to recommend the construction of such a vessel. But the battle of the Monitor and the Merrimac in Hampton Roads in 1862 [1] threw doubts on their opinion. The public in Parliament, and through the Press, clamoured for the construction of a turret ship; and finally, after seven years of agitation, Sir John Pakington, the First Lord of the Admiralty, sanctioned the construction of a turret ship at Messrs. Laird's works at Birkenhead, on the understanding that the entire responsibility for the proper construction of the ship should be shared by Messrs. Laird with Captain Coles.[2]

In March 1869, three months after the accession of Mr. Gladstone to office, the Captain—as the new vessel was called—was launched, and it was found that with her full complement and coal on board she had a freeboard of only a little more than five feet, instead of eight feet, as had been intended. The Admiralty, surprised at this result, refused to take over the vessel till she had been tried at sea. In the earlier months of the year she was despatched on three short trips; and in August 1870 she was sent, with other vessels of the Channel squadron, on the cruise in which she foundered in a Biscay Bay

[1] The Monitor was described by an American writer as 'a cheese-box floating on a raft.' She had two 6-inch guns, fired from a revolving turret. See Rhodes, *History of the United States*, vol. vi. p. 612.

[2] 'The Court before separating find it their duty to record the conviction they entertain that the Captain was built in deference to public opinion, as expressed in Parliament, and through other channels, and in opposition to the views and opinions of the Controller of the Navy.' See the finding of the Court on the loss of the Captain, reprinted in *Ann. Reg.*, 1870, Chron., p. 119.

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squall on the night of the 6th of September. Out of a complement of 501 men, only eighteen were saved.

The Captain, at the time of this disaster, was commanded by Captain Burgoyne—whose name and lineage carry the memory back to his grandfather's capitulation at Saratoga in the eighteenth century, and to the siege of San Sebastian, where his father directed the operations early in the nineteenth century. But Captain Coles was himself on board the ship; Mr. Childers had a son, and his predecessor, Sir John Pakington, a nephew among its officers. The news of the Captain's loss fell upon Mr. Childers as the news not merely of a great public calamity, but of a deep personal bereavement; and the blow was the more bitter because he was held partly responsible for it. He had, perhaps properly, insisted on the Captain being tried. But no communication had been made to the officer entrusted with the command of the serious fact that her freeboard was less than her builders had originally contemplated. At any rate, the court which inquired into the loss of the vessel expressed its deep regret—and in such a context deep regret implied grave censure—that this fact had not been communicated to Captain Burgoyne, and that the ship had been allowed to be employed in the ordinary service of the fleet, when this fact, and her consequent stability or instability, had not been sufficiently ascertained by calculation and experiment.[1]

In ordinary circumstances, the responsibility for this loss would have been borne by the First Lord of the Admiralty. For, under any system of Parlia-

[1] See the report in *Ann. Reg.*, 1870, Chron., p. 119.

mentary government, the head of every department is rightly held responsible for the acts of his official subordinates. But, in the circumstances of 1870, the responsibility fell with crushing weight on Mr. Childers, because it was generally known that he had overruled the opinion of his technical advisers on some subjects connected with the Captain. Mr. Reed, who had been Chief Constructor of the Navy since 1863, had always expressed grave doubts on the stability of the Captain. He had himself devised and built a turret ship, the Monarch, which moved entirely by steam instead of by wind, avoiding the chief error which led to the loss of the Captain. And he had resigned office in the summer of 1870, nominally to accept a valuable offer for a private firm,[1] but partly, it was suspected, in consequence of the growing friction between Mr. Childers and himself.[2] Nor was Mr. Reed the only high officer in the Admiralty who resigned in 1870-71. Sir Spencer Robinson was the Controller of the Navy. Under Mr. Childers's reforms Sir Spencer had actually become a member of the Board and, in the summer of 1870, it was freely rumoured that Sir Spencer as well as Mr. Reed had resigned office.[3] If friction had existed at Whitehall before the loss of the Captain, it became much greater after that event. Mr. Childers thought it his right or his duty to publish a minute on the finding of the Court, to whom the inquiry into the foundering of the vessel had been

[1] See his letter of resignation.

[2] Sir Spencer Robinson said later: 'The peculiarly hostile relations which he (Mr. Childers) had established with Mr. Reed disturbed his judgment.' See his correspondence with Mr. Gladstone, *Times*, 7th March, 1871.

[3] See *Hansard*, vol. ccii. p. 1003

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referred, and Sir Spencer complains that he 'printed, published and sold'[1] his minute without consulting any of his colleagues. The friction was so acute that the Government decided to terminate Sir Spencer Robinson's tenure of office on the expiration of its natural term in the following February,[2] and Mr. Gladstone communicated to him the formal decision of the Government in January 1871.[3]

The unremitting labour of his high office, the public anxiety and the private sorrow which resulted from the Captain's loss, and the strain which differences at the Board occasioned, proved too much for Mr. Childers's strength, and he was compelled to resign his post and seek health in the comparative freedom from trouble which Continental travel afforded him. And the loss of Mr. Childers's services was not the only loss which Mr. Gladstone's Cabinet sustained at this time. At the end of 1870, severe and protracted illness compelled Mr. Bright to insist on the acceptance of his resignation, which failing health had induced him to tender a year before. In the short period of a little more than nine months, three out of the most important members of Mr. Gladstone's original Cabinet—Lord Clarendon, Mr. Childers, and Mr. Bright—had either died or resigned, and Mr. Otway, the Under-Secretary of the Foreign Office, had flung up his post from his disapproval of the manner in which Lord Granville

[1] See the correspondence with Mr. Gladstone, *Times*, 7th March, 1871.

[2] *Ibid.*, 16th February, 1871.

[3] I have not thought it necessary to enter into the personal controversy connected with Sir S. Robinson's resignation. The correspondence will be found in the *Times* of the 16th February and 7th March, 1871, and cf. *Life of Childers*, vol. i. pp. 189 *seq.*, and a debate in the House of Commons, *Hansard*, vol. clv. pp. 1280-1332.

had met Prince Gortchakoff's denunciation of the Black Sea Treaty. Outside the Cabinet Mr. Austin Layard, the Chief Commissioner of Works, had been appointed to the Embassy of Madrid, while Mr. George Trevelyan, the Junior Lord of the Admiralty, had left the Government from a genuine dislike of the provisions of Mr. Forster's Education Act. The changes [1] thus made in the personnel of the Administration tended to decrease its strength and its popularity in both Houses of Parliament. Ministers had less effectual means of grappling with the business of a session which was certain to prove difficult; and they had imported with some of their new recruits seeds of danger which were to bring them embarrassment in no distant future. They showed, however, few signs of weakness in their written or spoken language. In opening Parliament, they put in the mouth of the Queen, who consented to open Parliament in person, probably the longest speech which she had ever been advised to deliver on such an occasion, containing one of the most elaborate legislative programmes ever foreshadowed at the commencement of any session. The regulation of the army and the auxiliary forces, the abolition of tests at the universities, the repeal

[1] Lord Clarendon had been succeeded by Lord Granville; Lord Granville, as Colonial Minister, by Lord Kimberley; Lord Kimberley by Lord Halifax; Mr. Childers was succeeded by Mr. Goschen; Mr. Goschen, at the Poor Law Board, by Mr. Stansfeld; Mr. Bright was succeeded by Mr. Chichester Fortescue; Mr. Chichester Fortescue, as Secretary for Ireland, by Lord Hartington; Lord Hartington, as Postmaster-General, by Mr. Monsell; Mr. Layard was succeeded by Mr. Ayrton. The Ministry, therefore, lost Lord Clarendon, Mr. Bright, Mr. Childers, and, outside the Cabinet, Mr. Layard, and gained Lord Halifax, Mr. Stansfeld, Mr. Monsell, and, outside the Cabinet, Mr. Ayrton.

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of the Ecclesiastical Titles Act, the readjustment of local taxation, the formation of a Court of Appeal, the removal of the disabilities of trades unions, a Scotch Education Bill, a new licensing Act, and the adoption of the ballot were specifically recommended by her Majesty in this spacious programme.

Large as this programme was, there was one conspicuous omission from it. Her Majesty had no special recommendation to make respecting Ireland. The axe was still suspended over the third branch of the famous upas tree; and, for a little further space, the higher education of the Irish people was to be suffered to remain unreformed. The condition of Ireland afforded a reason for the temporary suspension of the Irish programme. For agrarian crime, 'with painful though very partial exceptions,' was diminishing; and a period of calm was desired 'to secure the best results for the great measures of the two last sessions.'[1] Possibly these words afforded sufficient excuse for postponing further Irish legislation to some more convenient opportunity for delay. But a still more decisive ground could be discovered in the dissatisfaction of the Liberal party. For it was certain that any attempt to deal with the higher education of the Irish—involving, as it necessarily must, some concession to the Roman Catholics—would arouse strong opposition in Nonconformist England and Presbyterian Scotland; and Ministers were hardly prepared to increase and multiply the existing motives for discontent by proposing a new measure distasteful to some of the most honest and most loyal of their supporters.

[1] *Hansard*, vol. cciv. p. 9.

In these circumstances the Queen, in opening Parliament, was advised to say that 'to secure the best results for the great measures of the two last sessions, which have so recently passed into operation, a period of calm is to be desired'; and that she consequently 'thought it wise to refrain from suggesting the discussion of any political questions likely to become the subject of new and serious controversy' in Ireland.[1] Unhappily, however, it did not rest with her Majesty and her advisers to determine whether calm should be maintained or controversy should cease in that unhappy country. The Irish were beginning to learn that the English were more likely to yield to violence than to reason, and were again reviving the demand for autonomy, to which Mr. O'Connell had given expression a quarter of a century ago. In May 1870, while Parliament had been occupied with the debate on the Irish Land Act, Irishmen in Dublin were establishing a Home Government Association, formed for the purpose of obtaining for Ireland the right of self-government by means of a National Parliament. With this new object before them, compared with which the project of a Roman Catholic university lost its attraction, Irish agitators were not likely to abandon the agitation to which they already owed so much.[2]

In Ireland generally, indeed, the effect of alternate doses of conciliation and coercion—of an Irish Land Act tempered with a new measure for the preservation of peace[3]—had done something towards the

[1] For the speech, *Hansard*, vol. ccix. pp. 8, 9.

[2] See *inter alia*, Mr. O'Brien's *Life of Parnell*, vol. i. pp. 64–67.

[3] *Ante*, vol. ii. pp. 377–396.

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spread of that 'calm' which her Majesty was so rightly anxious to preserve. The reports received from the constabulary, whose business it was specially to report every instance of violence and crime throughout the country, showed a remarkable improvement. But, unhappily, in one corner of Ireland the improvement was not visible. In the county of Westmeath, and in some adjacent districts, agrarian offences of a very serious character were again attracting the attention of the authorities; and these crimes, serious in themselves, were accompanied by a state of terrorism. The Riband Society,[1] which traced its origin to the natural animosity with which the excesses of the Orange Lodges had inspired the Irish Roman Catholics, had always flourished in Westmeath; and in 1871 the Irish Government formally declared that in that part of Ireland Riband law, and not the law of the land, appeared to be obeyed. To an English Minister it was not altogether an agreeable circumstance that Mr. Martin, the ex-editor of the 'Irish Felon,' who had been convicted of treason-felony and transported in 1849, was returned at a bye-election in the Home Rule interest for Westmeath.[2] Mr. Martin's election, indeed, afforded one more proof of the deep gulf which separated the English from the Irish. For while in Ireland Mr. Martin was known from one end of the country to the other as 'honest John,' in England people were asking whether a man who had been convicted of treason-felony could be allowed to sit in the House of Commons.

[1] See Walpole's *Hist. of England*, vol. iv. pp. 363–4.

[2] The poll showed Martin, 1,140; Plunkett, 684. *Ann. Reg.*, 1871, Hist., p. 15.

The chief place in the Irish Administration had just been conferred on Lord Hartington, and it fell to him, in conjunction with Lord Spencer, the Viceroy, to determine the course which should be taken in a crisis of some difficulty. If the whole of England had been searched for the purpose, two more honest or well-meaning men could not have been chosen to decide the question. But, on the other hand, they were both of them deficient in that sense of imagination which occasionally enables a statesman to detect between the lines of official reports a truth which the officials who compose them are not always capable of perceiving. Lord Hartington and Lord Spencer saw that the police were, to some extent, paralysed. They were unable either to prevent crime or to obtain any trustworthy evidence against the persons whom they believed to be the criminals. Even the increase of the local police—though the increased cost was charged on the locality—proved powerless for good. The quick-witted Irish soon succeeded in evading the provisions of the Peace Preservation Act of the previous year. Even the people who were arrested for being out at night had always some lawful excuse to give which satisfied the magistrates. The House of Commons might make laws; the Irish found means of evading them.[1]

In these circumstances, the Government decided that the machinery for preserving order required additional strengthening; but at the same time it hesitated to ask for the powers believed to be necessary without taking the House of Commons into its confidence. The fact was, that the Prime Minister was not at one on the subject with his colleagues.

[1] See Lord Hartington's speech, *Hansard*, vol. cciv. p. 995.

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He thought that the Irish Government should defy Fenianism and apply itself to the practical remedies which might gradually influence Irish sentiment.[1] Even Mr. Gladstone, however, could not modify the views of the Irish Government or the opinion of his own colleagues; and Lord Hartington was suffered to move for the appointment of a Select Committee, before which he undertook to justify his demand for exceptional powers. In giving notice of his intention to move for the Committee, Lord Hartington announced that he should ask that the Committee might be secret.[2] But four days' reflection shook this decision; and, in moving for the Committee, he merely suggested that the Committee itself should have power to ask leave to sit with closed doors.[3] There was something, no doubt, to be said for the proposal. Nineteen years before, Lord Derby's Government—to take the latest precedent—had asked for the appointment of a similar Committee. But, on the other hand, the circumstances of 1870 were different from those of 1852, and there was both force and point in Mr. Disraeli's scornful rejoinder: 'If I had had a majority of one hundred behind my back, I would not have moved for the Committee.'[4]

The House instinctively, in fact, felt that the Government was adopting an unworthy attitude. The Ministers were delegating to the House of Commons a responsibility which they ought to have taken on themselves. If they were satisfied that the safety of their loyal fellow-subjects required exceptional legislation, their duty was to propose it. If the middle

[1] See Morley's *Life of Gladstone*, vol. ii. p. 297.
[2] *Hansard*, vol. cciv. p. 762.
[3] *Ibid.*, p. 1001.
[4] See Lord Beaconsfield's *Collected Speeches*, vol. ii. p. 367.

course, which they were taking, however, was unworthy of a great Ministry, it supplied an opportunity of which their opponents were not slow to avail themselves. During the two years which had passed since the formation of Mr. Gladstone's Government, Mr. Disraeli had done little or nothing to prove himself deserving the confidence of a great party. His opposition to the Irish measures, which had distinguished the sessions of 1869 and 1870, had been half-hearted; his leadership of the Opposition —partly, perhaps, in consequence of his ill-health [1] —had been tame and ineffective. But the difficulties which were now surrounding the Government restored him to his old vigour; Lord Hartington's motion supplied Disraeli with an opportunity; and on this motion he delivered a speech which recalled the brilliant attack made by him on Sir Robert Peel nearly a quarter of a century before.[2]

Stung by Mr. Disraeli's scornful eloquence, uneasy at the attitude of the House and the criticisms of Irish members, Mr. Gladstone was compelled to assent to a motion for the adjournment of the debate, though he did so on the understanding that an effort should be made to conclude the discussion on the following evening.[3] The Conservatives, however, had no intention of smoothing the way for the Government on this night. Sir Massey Lopes, the

[1] Hickman's *Life of Lord Beaconsfield*, p. 444.

[2] It was in this speech that he used the famous phrase, 'Under Mr. Gladstone's influence, and at his instance, we have legalised confiscation, consecrated sacrilege, condoned high treason, we have destroyed churches, we have shaken property to the foundation, we have emptied gaols, and now we cannot govern a country without coming to a Parliamentary Committee. The right hon. gentleman, after all his heroic exploits, and at the head of his great majority, is making Government ridiculous.' *Hansard*, vol. cciv. pp. 1007, 1008.

[3] *Ibid.*, p. 1026.

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member for Devonshire, had seized the occasion for advocating the claims of local ratepayers for relief; and though Mr. Goschen was able to assure the House that the Government had anticipated Sir Massey's arguments by instituting inquiries on the subject wtih a view to legislation, the House, after a long debate, rejected Sir Massey's motion by a majority only about half as large as that which the Government was usually able to command.[1] This debate naturally interfered with the progress of business. The Ministry was forced to devote a night, which it could not conveniently spare, to Lord Hartington's motion; and, though the Committee which had been moved for was appointed, the time occupied by the debate deranged the Parliamentary programme. The report of the Committee, moreover, did not materially simplify the course of the Government. For while the Committee admitted that the existing law was inadequate, it left to the Government the responsibility of devising and recommending the further measures that might be necessary.[2] Two months had passed since the date of Lord Hartington's motion; and a Select Committee had declared that the Government must undertake the duty which it might obviously have undertaken two months before. Even, however, after the Committee's report, the Government had no clear mind as to the course to be taken, and, on Mr. Gathorne Hardy's inquiring what it was proposed to do, Mr. Gladstone replied that the Government had not yet had time to attend to the question—an answer which the 'Times' not unnaturally described as

[1] By 241 votes to 195, *Hansard*, vol. cciv. p. 1110.

[2] *Times*, 3rd April, 1871.

portentous.[1] The fact was that the Ministry was by this time so embarrassed by its ample programme, and by the obstructive tactics of the Opposition, that it could not venture to ask the House of Commons to devote any portion of its time to the affairs of Westmeath; and a compromise was finally adopted under which the measure, the remedy to be proposed, was to be introduced in the Lords.[2]

This decision, and this delay, naturally provoked two different criticisms. However ready Parliament may have been to arm the executive with exceptional powers for protecting life in Ireland, common sense suggested that if those powers were necessary they should be granted at once; and that if the Government could dispense with them from February to May, they were not absolutely necessary in June and July. Just as, twenty-five years before, the delays in the passage of the Protection for Life Bill had furnished Whigs and Protectionists with an excuse for the final defeat of Sir Robert Peel's Ministry, so the delay in 1871 enabled Opposition speakers to say that Mr. Gladstone's Ministry was liable to the gravest censure for not producing such a measure on the first night of the session.[3] And the introduction of the Bill in the Lords invited another kind of criticism; for it was argued, with some force, that, if it was intended to introduce the Bill into the Lords, the preliminary inquiry should have been made in that House. It was illogical to found a measure, introduced into one branch of the

[1] *Times*, 19th April, 1871.

[2] *Hansard*, vol. cciv. pp. 1548, 1580.

[3] See the Duke of Richmond's speech, *Hansard*, vol. ccvi. p. 15. For the proceedings of 1846, Walpole's *History of England*, vol. v. pp. 147, 150.

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Legislature, on facts which had been ascertained before a Committee of the other.[1]

These criticisms—obvious as they were—did not interfere with the passage of the Bill through the House of Lords. The provisions which the Government introduced were, indeed, stringent enough. In the first place the Bill continued the Peace Preservation Act for a further period of two years; and in the next place it enabled the Lord Lieutenant not merely to suspend the Habeas Corpus Act in Westmeath and the adjoining district but to arrest in any part of Ireland any persons who had been in Westmeath after the 1st of January, 1871, and who were suspected of Ribandism.[2] And yet, except for a protest from Lord Grey, who complained that a wholly exceptional and—from its nature—temporary remedy should be applied to a chronic disorder,[3] no peer objected to the Bill. The complaint was not that it was introduced, but that its introduction had been postponed.

If opposition in the House of Commons was not more effectual, it was at any rate more protracted. It practically took only two days to get the Bill through the Upper House; in the Lower House a month was required to pass it. The measure which had been declared necessary in February did not become law till the latter half of June, and the mere fact of its passage reflected on the whole Irish policy of the Ministry. Parliament had disestablished a Church and passed an Irish Land Act in the hope that Irish discontent would disappear on the removal of Irish wrongs; and Irish discontent was leading to new disorder and

[1] See Lord Salisbury's speech, *Hansard*, vol. ccv. p. 1549.

[2] *Ibid.*, vol. ccvi. pp. 11, 12.

[3] *Ibid.*, p. 26.

to the revival of old remedies. Whatever other results had ensued from the Acts of 1869 and 1870, it could not be pretended that they had satisfied the Home Rule Association. The condition of Westmeath was the answer which the Irish were returning to the Minister who had risked so much to satisfy Ireland.

Long before the Protection of Life Bill became law, the Ministers had addressed themselves to the other subjects in their programme. The same consideration which induced them to postpone any measure for Irish university reform, induced them to deal with the English universities; for while Nonconformist England objected to making any provision out of the public funds for the higher education of the Roman Catholic Irish, Nonconformist England was unanimous in desiring to open the advantages of the great English universities to all classes of the English people. University reform in Ireland, in other words, was calculated to widen the breach in the Liberal ranks, while university reform in England might be expected to heal the wounds and soothe the susceptibilities of discontented Liberals.

The ideas which prevailed in the middle of the nineteeth century about the great English universities differed as widely as the opinions of those which had been recorded by Johnson and Gibbon a century before.[1] Some there were who, judging by

[1] Johnson said of Oxford: 'There is here such a progressive emulation. The students are anxious to appear well to the tutors; the tutors are anxious to have their pupils appear well to the college; the colleges are anxious to have their students appear well to the university; and there are excellent rules of discipline in every college.' Boswell's *Life of Johnson*, vol. ii. p. 53.

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the sons whom Oxford and Cambridge had given the Church and State, thought that there could not be much amiss with a system which had produced a Pitt and a Peel, a Gladstone and a Keble. Others there were who, conscious of the gross extravagances in which many undergraduates indulged, and of the few additions which they made to their learning during their sojourn at the universities, were inclined to form an uncharitable opinion. 'The free life of unreformed Oxford, with its lax discipline, its few examinations, its ample leisure for social intercourse of the best kind,'[1] may have had its compensations for men of ability, of industry, and of character. It was full of danger for young men with more money than brains, and with less inclination for study than for pleasure.

The best friends of the universities themselves in the middle of the nineteenth century could hardly deny that the results which the universities achieved were not commensurate with the resources at their disposal. The revenues of the universities were indeed small. But many of the colleges were enormously wealthy. The revenues of the university and colleges at Cambridge exceeded 200,000*l.* a year; and, as the university, on an average, granted 330 degrees

Gibbon wrote in his autobiography: 'After the departure of Dr. Waldegrave (his first tutor at Oxford) I was transferred with the rest of his live stock to a senior fellow whose literary and moral character did not command the respect of the college. Dr. Winchester well remembered that he had a salary to receive, and only forgot that he had a duty to perform. Instead of guiding the studies and watching over the behaviour of his disciple, I was never summoned to attend even the ceremony of a lecture; and except one voluntary visit to his rooms, during the eight months of his tutorial office, the tutor and pupils lived in the same college as strangers to each other.' *The Autobiographies of Edward Gibbon*, p. 81.

[1] Mr. Paul in *Life of Matthew Arnold*, p. 15.

annually, 600*l.* (or about 200*l.* yearly) was paid from the endowments for every Bachelor of Arts, Law, Medicine, or Divinity, whom the university turned out.[1] The average net income of King's College, Cambridge, exceeded 22,000*l.* a year.[2] Yet the whole number of students who annually matriculated or graduated at King's was only three.[3] Its sister institution at Oxford, New College, had an income of from 15,000*l.* to 16,000*l.* a year,[4] and its gates, originally entered only by the students of Winchester, had been opened to a few noblemen or gentlemen commoners.[5] It could hardly be pretended that these venerable and interesting institutions were carrying out the intentions of their founder. Henry VI., in founding King's College, intended that the seventy poor and indigent scholars who learnt grammar at Eton should form a nursery for the supply of vacancies among the seventy poor and indigent scholars studying various sciences and faculties at Cambridge. Every scholar at King's was to be 'a poor indigent clerk having received the first clerical tonsure.' With the possible exception of two scholars, who were to study medicine, they were all required to enter Holy Orders; they were regularly to reside in the college; and they were to pass their time in the services of the college chapel,

[1] See the calculation in Mr. Bouverie's speech, *Hansard*, vol. cxlii. p. 811.

[2] See the Report of the Cambridge University Commission, *Parl. Papers*, 1852, pp. 349–351.

[3] *Ibid.*, p. 176; *Hansard*, vol. cx. p. 692. [The Commission appears to have taken for this average the years 1840–50, when the number of vacancies at King's College was exceptionally low. It will be remembered that scholars from Eton only were elected as vacancies occurred. The general average may be reckoned at 4½. The average number of undergraduates in residence at any one time was 13.

[4] *Ibid.*

[5] Report, Oxford University Commission, *Parl. Papers*, 1852, p. 210.

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and in the instruction of the scholar students.[1] As a matter of fact few or none of these conditions were observed in practice. The Fellows were not required to take orders; and residence was not enforced.

If, however, time had introduced changes into the colleges on the banks of the Isis and of the Cam, the spirit which still brooded over both universities belonged to another age than that of the nineteenth century. The residence of a Fellow was no longer enforced, but the Fellowship was forfeited on the marriage of the Fellow, and, with few exceptions, 'almost every Fellow of a college was bound to be ordained or to resign his Fellowship.'[2] The patronage at the disposal of the authorities at both universities provided a strong inducement to the Fellow to take orders, even when the statutes or the by-laws of the colleges did not require him to do so.[3] Men, indeed, who did not contemplate a clerical career had no great reason for incurring the expenses of a university education. Though the character of the education at Oxford had been raised by the Oxford Examination Statutes of 1807, under which a system of honours had been first instituted, and though the curriculum at Cambridge had been enlarged in 1824 by the institution of the Classical Tripos,[4] the education at both universities was still meagre. 'The education imparted at Oxford,' wrote the Oxford University Commissioners in 1852, was 'not such as to conduce to the advancement in life of many persons except those intended for the

[1] Report, Cambridge University Commission, pp. 174, 175.

[2] Professor Campbell, *The Nationalisation of the Old English Universities*, p. 15.

[3] Report, Oxford University Commission, p. 163.

[4] Professor Campbell, *The Nationalisation of the Old English Universities*, p. 11.

ministry of the Established Church.' Few medical men, few solicitors, few persons intended for commerce or trade, ever dreamed of passing through a university career. Many barristers who had risen to high judicial functions had never graduated at a university, and a large proportion of those barristers who had received a university education were said to be Cambridge men.[1] At Oxford, up to 1850, the candidate for an ordinary degree had usually prepared four plays of Euripides, four or five books of Herodotus, six books of Livy, half of Horace, four books of Euclid, or (in lieu of Euclid) Aldrich's Compendium of Logic. He was also expected to translate a passage from English into Latin; to construe any passage of the four Gospels; to repeat the Thirty-nine Articles, and to answer questions on the historical facts of the Old and New Testaments. But the examiners were 'satisfied with a very slight exhibition of knowledge as regards many of these subjects. If decent Latin writing should be insisted upon, the number of failures would be more than quadrupled. The Latin and Greek authors are commonly got up by the aid of translations. The knowledge of logic insisted on is very meagre.'[2]

There could not be much room for surprise that a father, anxious for his son's advancement, and who did not propose to send him into the Church, should hesitate to spend the 1,000*l.* or 1,200*l.* which an Oxford education involved, in order to obtain for him the smattering of knowledge which a boy of ordinary attainments might be expected to possess before he left school. Meagre, however, as were the

[1] Report, Oxford University Commission, pp. 18, 19.

[2] *Ibid.*, p. 62.

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requirements for an Oxford degree, the requirements of the sister university were even more slender. The candidate for an ordinary degree at Cambridge in the middle of the nineteenth century was examined in the first or last half of the Acts of the Apostles; in two of the shorter, or one of the longer Epistles; in three of the six books of Paley's Moral Philosophy; in the History of the Christian Church from its origin to the Council of Nice; in the History of the English Reformation; in a portion of the works of one of the Greek and one of the Latin classical authors; in the general rules of arithmetic; in the rudiments of algebra; in the third and part of the sixth book of the Elements of Euclid; and in the elementary principles of mechanics and hydrostatics.[1]

It may, perhaps, be thought that the slenderness of the stock of knowledge which the ordinary undergraduate was required to possess was immaterial, because the universities required higher qualifications for 'honours,' while scholarship was encouraged and rewarded by the rich prizes which their Fellowships afforded. But, so far as the first of these considerations was concerned, the great mass of the men never had any thought of going in for honours; and though the small minority who strove for a high place in the class lists were the salt that seasoned the university, the example had little or no effect on their fellow students as a whole. So far as the second of them was concerned, the utility of Fellowships was lessened by the restrictions under which they were granted. At Cambridge, where, on the whole, the practice was most liberal, the college Fellowship was 'regarded as the chief motive to exertion, and the great reward of

[1] Report, Cambridge University Commission, p. 21.

industry and talent.' And it is right to add that 'the perfect integrity and impartiality with which these prizes are for the most part awarded' were recognised by the Commissioners who inquired into the university, as 'one of the most valuable features of the Cambridge system.' Even at Cambridge, out of 426 Fellowships, 154 were awarded to men who had been born in certain localities, had been educated at certain places, or were kin to certain people. But at Oxford, out of 542 Fellowships, only twenty-two were in such a sense open that a young man, on first coming up, could see his way clear towards them with no other bar than arose from his own want of talents or intelligence. The rest were almost all restricted to persons born in particular localities, to founders' kin, and to persons educated in particular schools. The sixty-one studentships at Christ Church, 'which differed from Fellowships elsewhere in being tenable by undergraduates,' were 'in the gift of the canons in rotation, who treated them very much as private property.'[1]

It must not be thought that the authorities of the universities were responsible for this state of things. On the contrary, many of them deplored the existence of restrictions which they said were injurious to study and disadvantageous to the universities. But they were bound to fulfil the conditions on which the Fellowships were granted; and, although many of them had a conservative dislike

[1] Report, Cambridge University Commission, p. 156, and Oxford University Commission, p. 149. It is right to add that Oriel had thrown open its Fellowships, and Balliol its studentships, to general competition. Campbell, *Nationalisation of the Old English Universities*, p. 13. The high position which these colleges had attained was a proof of the wisdom of these steps.

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to interfering with existing interests, they cannot be condemned for carrying out directions which it required ultimately an Act of Parliament to remove.

Among the many deficiencies attending a university education there was, however, one good thing about it, and that was the education which the undergraduates gave themselves. It was impossible to collect some thousand or twelve hundred of the best young men in England, to give them the opportunity of making acquaintance with one another, and full liberty to live their lives in their own way, without evolving in the best among them some admirable qualities of loyalty, independence, and self-control. If the average undergraduate carried from the university little or no learning which was of any service to him, he carried from it a knowledge of men and respect for his fellows and himself, a reverence for the past, a code of honour for the present which could not but be serviceable. He had enjoyed opportunities, during the years in which his faculties were developing, of intercourse with men, some of whom were certain to rise to the highest places in the Senate, in the Church, or at the Bar. He might have mixed with them in his sports, in his studies, and perhaps in his debating society; and any associations which he had thus formed had been useful to him at the time, and might be a source of satisfaction to him in after life. Defective as the education was, these and other advantages gave the university man a position, a 'seal' which could not be secured in any other way. No wise man, no man, at any rate, who has had reason to deplore that he should not have had these opportunities, will doubt that much good was derived by the majority of

students from their three or four years' residence under the shadow of a great university.[1] It might almost have been said of the English university as Talleyrand said of the English public school, 'La meilleure éducation du monde est le public school d'Angleterre, et celle-là est détestable.' The pity of it was that these advantages were sometimes destroyed by the extravagance into which men living at the university too frequently fell; and that they were often purchased, in the case of the ordinary undergraduate, by the deliberate neglect of educational opportunities and lost under the incubus of a narrow and purposeless course of study.

If the deficiencies of a university education were great, there were other restrictions which had the effect of closing these great seats of learning to large sections of the population. At Cambridge, where the practice was more liberal than that of the sister university, and where the authorities, much to their credit, had ventured to strain their powers by relaxing the regulations imposed on them in the seventeenth century by the Crown,[2] every undergraduate on taking his degree had to declare that he was bonâ fide a member of the Church of England as by law established. At Oxford every undergraduate on matriculation was required to sign a book 'to which

[1] Carlyle, in his *Life of Sterling*, says the same thing: 'One benefit, not to be dissevered from the most obsolete University, still frequented by young ingenious living souls, is that of manifest collision and communication with the said young souls,' &c. See *Life of Sterling*, p. 41.

[2] See Report, Cambridge University Commission, pp. 38–44. Professor Campbell points out, however, with some force, that as every undergraduate was compelled to be a member of a college, and as the colleges uniformly enforced attendance at chapel as a part of their discipline, the distinction between the two universities was in this respect more apparent than real. *The Nationalisation of the Old English Universities*, p. 2.

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the Thirty-nine Articles were prefixed,' and on presenting himself for a degree, to repeat the subscription and to declare that he had read them, or had heard them read. The test required at matriculation, therefore, was less rigid than that exacted before admission to a degree, and in practice it was made easier by the Vice-Chancellor or pro-Vice-Chancellor telling the youth that 'he was expressing his assent to the Thirty-nine Articles "so far as he knows them," or that the signature implied that he had no objection to the Articles, which he probably had not read, or that he was declaring himself to be a member of the Church of England.'[1] Subscription to the Thirty-nine Articles was intended to exclude the Roman Catholic from the benefits of university education. In order to exclude the Puritan an additional test had been imposed in the reign of Charles I. by requiring candidates for a degree to subscribe the three Articles of the Thirty-sixth Canon of the Church.[2]

These tests operated in a singular fashion. On the one hand they formed no obstacle to the admission of some persons known to be members of other communions, such as the Evangelical Church of Prussia, the Evangelical Society of Geneva, the Wesleyan body, and the Established Church of Scotland. On the other hand there were persons who, though members of the Church of England, were unwilling to declare 'that they adopted all that

[1] Oxford University Report, p. 55.

[2] These three articles affirmed the exclusive supremacy of the Crown in matters spiritual as well as temporal; the affirmation that the Book of Common Prayer, and the Ordering of Bishops, Priests, and Deacons contained nothing contrary to the word of God, and may be lawfully so used; and a recognition of the Thirty-nine Articles. See *inter alia*, Cambridge University Commission, p. 39.

was proclaimed in the Articles,' and who therefore felt themselves excluded from taking the higher degrees. But the fact that the system excluded from a university education many men whom it was eminently desirable to admit, was not the only objection. As the Oxford Commissioners wrote in 1852: 'It is probably familiarity alone that reconciles us to a system which exacts from youths at their first entrance into the university a formal assent to a large number of theological propositions which they cannot have studied, and which in many colleges they are not encouraged to study till a considerable period after they have subscribed them.' [1]

University reform had been frequently talked of. In 1771, exactly a hundred years before the tests were finally swept away, a Society called 'the Feathers Tavern Association' was formed, and under its auspices a petition was presented to the House of Commons for the abolition of subscription to the Thirty-nine Articles.[2] In 1773 a member of Parliament asked the House of Commons to take

[1] Oxford University Report, p. 55. The Commissioners go on: 'The subscription is required by the Statutes from children of the age of twelve: a requirement now happily in abeyance, owing to the more advanced age at which students reach the university.' But the practice, even in the eighteenth century, seems to have been more liberal than the Statutes. For Gibbon, who matriculated in his fifteenth year, expressly says: 'My insufficient age excused me from the immediate performance of this legal ceremony; and the Vice-Chancellor directed me to return, so soon as I should have accomplished my fifteenth year, recommending me in the meanwhile to the instruction of my college. My college forgot to instruct, I forgot to return, and was myself forgotten by the first Magistrate of the University.' *Autobiographies of Edward Gibbon*, p. 83. Lord Westbury's experience at a later date was different: 'At the tender age of fourteen, when he matriculated at Oxford, he had not been allowed to subscribe to the Statutes, he was compelled to sign the Articles of Religion.' *Hansard*, vol. clxxii. p. 193.

[2] For the history of the movement see Lecky, *History of England*, vol. iii. p. 497.

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into consideration the tests required of persons at their matriculation in either of the universities, but, after a debate in which Fox, Townshend, and Lord North took part, the motion was rejected by a large majority.[1] In 1834, sixty years afterwards, the subject was reopened in the more congenial atmosphere of a Reformed Parliament. A petition, signed by so many as sixty-three members of the Senate of Cambridge, was presented to both Houses praying that dissenters might be admitted to degrees.[2] The presentation of the petition led to debates in both Houses, and was followed by the introduction of a Bill intended to give effect to its prayer. The Bill actually passed the House of Commons, where it was warmly supported by Mr. Stanley (afterwards Lord Derby)[3] but was rejected by a considerable majority in the Lords.[4] The subsequent institution of the London University, which afforded Nonconformists the opportunity of obtaining the degrees that were essential for their advancement,[5] to a certain extent

[1] By 159 votes to 64. *The Debates and Proceedings of the British House of Commons* for April 1772 to July 1773, pp. 222–239.

[2] *Hansard*, 3rd series, vol. xxii. pp. 497, 570, and cf. May, *Constitutional History of England*, vol. iii. p. 196. Stuart Reid says, in his *Life of Lord Durham*, ch. xiv., the petition was too remarkable to be shelved without comment. It represented more than one-third of the Senate resident in the University, and was signed by Professors Airey and Sedgwick, two heads of houses, nine professors, and eleven college tutors. In consequence partly of the Bill which followed, a controversy arose at Oxford on the expediency of substituting a declaration of conformity to the Church for subscription. This expedient, which was advocated by Professor Hampden, and bitterly opposed by Newman, Keble, and Pusey, was actually adopted by the heads of houses on the 10th of November, 1834, by one vote. The heads, however, rescinded this resolution in the following week. See, *inter alia*, *Life of Pusey*, vol. i. pp. 294–312, and especially pp. 301, 304.

[3] Professor Campbell, *Nationalisation of the Old English Universities*, p. 45.

[4] *Hansard*, vol. xxv. p. 815, cf. p. 886, and cf. *Hist. of England*, vol. iv. p. 18, note.

[5] The Inns of Court admitted graduates to the Bar in three

supplied the remedy which was required. The conservative atmosphere which surrounded Lord Melbourne's Administration discouraged reform. Reformers had other work in the stirring period of Sir Robert Peel's Government: the questions of university reform and the claims of Nonconformists to an education at Oxford and Cambridge were suffered to slumber.

In the sixteen years which followed 1834, however, attempts were from time to time made to disturb this repose.[1] But it was only in 1850 that a new step of any importance had been taken. In that year Mr. Row—a member of the Oxford Convocation—published anonymously a letter to Lord John Russell on the constitutional defects of the university and colleges of Oxford, with suggestions for a Royal Commission of inquiry into the universities. This pamphlet, for the letter was published in pamphlet form, attracted in the first instance comparatively little attention. It was, in fact, alleged that it was circulated secretly, and that the publisher under whose auspices it appeared had no copies of it on sale.[2] The pamphlet furnished, however, material for a speech, in which Mr. Heywood, one of the members for North Lancashire, who had probably an hereditary interest in the subject,[3] advocated university

years instead of five, the Colleges of Physicians and Surgeons admitted none but graduates or Fellows. May's *Const. Hist.*, vol. iii. p. 195.

[1] I have not thought it necessary to deal with this period in more detail. See, in reference to it, *inter alia*, *Life and Letters of Benjamin Jowett*, vol. i. pp. 174–194.

[2] See Sir Robert Inglis's speech in *Hansard*, vol. cx. p. 698. For the authorship of this pamphlet see the catalogue of the London Library. Mr. Row subsequently became Bampton Lecturer in 1877.

[3] The Heywoods, in the seventeenth century, had suffered in the cause of Nonconformity, while Samuel Heywood, in the eighteenth century, had published the *Right of Protestant Dis-*

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reform at Oxford, Cambridge, and Dublin. Mr. Heywood's motion produced a startling result, 'unexpectedly and to the surprise certainly of all who were interested in the universities.'[1] Lord John Russell, speaking as Prime Minister, announced his intention to issue a Royal Commission to inquire into the state of the two universities of Oxford and Cambridge.[2] Doubts were almost immediately expressed as to the competence of the Crown to institute such an inquiry; and Lord John Russell, it was argued, was contemplating 'the very thing which King James II. had attempted.'[3] The immediate reply was, of course, that a mere Commission of inquiry, without any executive power, could not be open to the charge that it was illegal, but it was admitted to be only reasonable that the House should have some opportunity of thinking over a proposal which had been made without notice by the Minister. The debate was accordingly adjourned and, before it was resumed,[4] the Prime Minister issued letters to the Chancellors of both universities explaining the steps which he had proposed to take, and the scope and objects of the Commission which he intended to advise the Crown to appoint.[5] Mr. Heywood, satisfied with the success which he had secured, declined to press forward his motion; and it seemed probable

senters to a Complete Toleration Arrested. See *Dict. of National Biography*, sub Heywood, Nathaniel, Oliver, and Samuel.

[1] The expression is Mr. Roundell Palmer's (Lord Selborne's) in a subsequent debate. *Hansard*, vol. cxii. p. 1455.

[2] *Ibid.*, p. 754.

[3] *Hansard*, vol. cxii. p. 761; see also Mr. Roundell Palmer's later speech in vol. cxii. p. 1455. For the attack of James II. on the universities I suppose I need hardly refer the reader to the well-known account in Macaulay, vol. ii. p. 275 *seq.*

[4] *Hansard*, vol. cx. pp. 761, 765. For the resumed debate, *ibid.*, vol. cxii. p. 1455.

[5] *Ibid.*, vol. cxi. p. 457.

at one moment that the Commission would be appointed without any further parliamentary debate. This result, however, was made impossible by the strenuous efforts which Mr. Gladstone made to crush Lord John's proposal. In a speech animated by the instinctive conservatism which Mr. Gladstone displayed on so many occasions throughout his career, and in which the cogency of his arguments concealed the weakness of his case, he 'denounced the proposed Commission as probably against the law, and certainly odious in the eye of the Constitution . . . and closed with a triumphant and moving reference to Peel (dead a fortnight before), the most distinguished son of Oxford in the present century, and the true type of the genius of the House of Commons.'[1]

Mr. Gladstone's strenuous action did not ward off the impending blow. Soon after Parliament separated for the recess, Lord John Russell appointed two Commissions to inquire into and report on the state, discipline, studies, and revenue of the two universities, and the colleges connected with them. Whatever might be thought of the expediency or propriety of these inquiries, nothing but praise could be accorded to their composition. At the head of the Cambridge Commission was placed Graham, Bishop of Chester, a prelate who in his youth had distinguished himself as a high Wrangler and Chancellor's Medallist, and who in his maturer years had succeeded to the Mastership of his college, and in that capacity had been twice selected as the Vice-Chancellor of

[1] In truth no worse case was ever more strongly argued. Morley, *Life of Gladstone*, vol. i. p. 498. The speech is in *Hansard*, vol. cxii. p. 495.

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his university. With the Bishop of Chester were associated Peacock, Dean of Ely, one of the most prominent mathematicians whom Cambridge had produced; Sir John Herschel, who had won almost as much distinction as an undergraduate in his youth as he had acquired as an astronomer in his maturer years; Sir John Romilly, who had inherited the ability and character of his distinguished father; and Mr. Sedgwick, the geologist, who throughout an unusually long life remained among the most faithful and devoted of his university's sons. At the head of the Oxford Commission was placed Hands, Bishop of Norwich, one of the most learned and moderate of prelates, and with him was associated Tait, Dean of Carlisle, Arnold's successor at Rugby,[1] who was destined to preside over the Church of England with a tact and wisdom not surpassed by any of his predecessors; Jeune, the Master of Pembroke and afterwards Bishop of Peterborough; Liddell, the Headmaster of Westminster, and subsequently Dean of Christ Church; and Johnson, a distinguished Oxford professor, afterwards Dean of Wells,[2] who had long been conspicuous in his devoted efforts for the reform of his university.[3]

Distinguished as their names were, still greater interest, perhaps still greater distinction, attaches to the Secretary of the Oxford Commission. For that

[1] *Hist. of England*, vol. v. p. 282; *Life of Hampden*, p. 67. For Tait's share in the Report see *Life of Tait*, vol. i. pp. 157–174.

[2] I ought to add that Dampier, the Vice-Warden of the Stannaries of Cornwall, and Baden Powell, Savilian Professor of Geometry, served on the Commission.

[3] For Johnson's efforts for reform see a striking letter from Professor Goldwin Smith to Mr. Roundell Palmer in '*Memorials Family and Personal*, vol. ii. p. 194.

office the Crown selected a man, then comparatively young, who had been Arnold's favourite pupil at Rugby, who had written his old master's biography, and who was exercising an influence as an Oxford tutor and an Oxford professor such as falls to the lot of few men.[1] Dr. Stanley rose afterwards to one of the most dignified offices in the English Church. His books made his name a household word on either side of the Atlantic; the charm of his personality and the brightness of his conversation made him a welcome guest at every London dinner-table; while his large and moderate views did much to extend the scope and purpose of Westminster Abbey, and to enlarge its influence over all classes of the community. But among the many interests of his useful life it is doubtful whether Dr. Stanley ever did better work than that which he rendered to the cause of progress and religion as Secretary of this Commission.

The Oxford Commission at one of their earliest meetings gave Dr. Stanley an assistant secretary, a younger man who was almost as brilliant as himself, and is understood to have been the original of the Professor in 'Lothair,' who, it may be recollected, declared the universities had nothing to do with religion.[2] The Secretary of the Cambridge Commission—Mr. Bateson—who was appointed by the Commissioners, was then Public Orator to the University of Cambridge, and was subsequently to be Master of St. John's and Vice-Chancellor.

The Commissioners met with some little difficulties. The objections which had been raised in Parliament

[1] See *Life and Letters of J. R. Green*, p. 17.

[2] *Lothair*, ch. xxiv.

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on constitutional grounds to the appointment of the Commissions led, in some cases, to the withholding of information which would have been of value.[1] On the whole, however, this did not materially interfere with the labours of the Commissioners, who were able either directly or indirectly to procure the information on which their elaborate reports were founded. Of these reports, perhaps the more conservative was that which related to Cambridge. The Commissioners bore ready and generous testimony to the manner in which the authorities at that university had enlarged the cycle of her studies, had modified her institutions, and had devoted the revenue at their disposal to objects of great academical importance. The Commissioners considered that their own recommendations, large as they were, harmonised with the spirit which had prompted these reforms. But even at Cambridge the Commissioners recommended the enlargement of the professorial system, the institution of 'honours in many new and distinct branches of knowledge,' 'the removal of all restrictions from election to Fellowships and Scholarships,' and an adequate contribution from the corporate funds of the several colleges to the cost of public teaching by the university itself. The Commissioners, moreover, considered that these reforms could not be carried out without the assistance of the Legislature, and they suggested that the principles upon which reform should proceed should be laid down by Parliament, and that a Board should be entrusted

[1] Cf. *e.g.* the Vice-Chancellor's letter in the *Cambridge Report*, p. 2, with the statement in the *Oxford Report*, p. 1, and the correspondence in the Appendix in this report.

with temporary powers for the purpose of carrying them into effect.[1]

The reforms recommended by the Oxford Commissioners were broader and more detailed. In particular, they recommended large changes in the government of the university. But like their fellows of Cambridge, they were agreed in recommending that the curriculum of the university should be enlarged; that the professorial staff should be strengthened and better paid; they also considered that scholarships should be thrown open to all subjects of the Queen, that Fellowships should be open to all members of the university, and that the Fellows should be released from any obligation to enter Holy Orders, or to proceed to the higher degrees in Theology, Law, and Medicine. They further proposed to lessen the expense of a university education by allowing students to reside in Oxford without the expense involved in their connection either with a college or a hall.[2] 'Broadly speaking, the aim of the Commissioners was to popularise the university: first, by giving to its governing body a quasi-representative character; and, secondly, by opening the university to a much larger and poorer class than that from which the students previously had been taken.'[3]

It was obvious that the large and important changes which had been simultaneously recommended by both Commissions could not be carried

[1] *Cambridge Report*, pp. 199–202, and cf. Lord J. Russell's comments on the recommendation proceeding from men who had approached the subject with generous love and admiration for their great institutions. *Hansard*, vol. cxxv. p. 547.

[2] *Oxford Report*, pp. 256–260.

[3] Davidson's *Life of Tait*, vol. i. pp. 165, 166. For the great share which Dr. Tait took in the labours of this Commission cf. *ibid.*, pp. 140–174.

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out without legislative authority. But the question which immediately arose was whether the necessary measure could be left to the initiation of the universities themselves. In opening Parliament in November 1852, when a Tory Government under Lord Derby still held office, the Queen was advised to say that she had directed the reports to be communicated to the governing bodies of the universities for their consideration, and to add that she relied upon the readiness of Parliament to remove any legal difficulties which might impede the desire of the universities at large, or of the several colleges, to introduce such amendments into the existing system as they might deem to be more in accordance with the requirements of the present time;[1] while, six months later,[2] when Lord Derby's Government had fallen, Lord John Russell made it plain that the new Cabinet did not mean to legislate 'without giving full means to the universities of considering all that they ought to do.'[3]

It became, however, gradually plain that, if an adequate measure of reform was to be carried, it

[1] *Hansard*, vol. cxxii. p. 21.

[2] *Ibid.*, vol. cxxv. p. 547.

[3] It ought perhaps to be added, as evidence of the drift of opinion, that in 1853 a Bill was introduced by the Lord Advocate for the total abolition of tests in the lay faculties of the Scottish universities. English Conservatives urged that 'the severance of the lay faculties from the Church of Scotland would be injurious to the highest interests of that Church.' But the Bill, these arguments notwithstanding, became law, and Mr. (afterwards Lord) Playfair was able to show in 1869 that their prediction had been proved false by the event. 'Dissenters in abundance have professorial seats . . . . but, nevertheless, the Church of Scotland, through the theological faculties, continues to train its future ministers with the most perfect confidence. The graduates have now received a large share in the government of the university . . . . and yet they have never by a single act, in their academical capacity, tried to loosen the ties which bind the theological faculties to the Church.' *Hansard*, vol. cxciv. pp. 1439, 1440.

would have to be proposed from without and not from within the universities. Apart from the difficulty of inducing any profession to reform itself—for even the best and wisest men who have grown old amidst the traditions of their calling are unable to appreciate the abuses which may have grown up in it—there was a wide difference of opinion at the universities as to what should be done. There was even a radical divergence on the composition of the body which should be entrusted with the work of reform. Mr. Gladstone said in the House of Commons that six different constitutions had been sent up from Oxford, all of them recommended on very respectable authority.[1] It was, therefore, manifest that if adequate legislation were to come, it would have to come from the outside, and the Government, satisfied to this effect, decided on dealing in the first instance with the case of Oxford. The form that legislation should take was, however, open to dispute. Men like Dr. Jowett, whose abilities and character were already procuring him the influence and authority which he exercised in later years as the Master of Balliol,[2] wished that Parliament should lay down the principles on which reform should proceed and leave to the universities the settling of details. Mr. Gladstone, on the contrary, whose position in the Cabinet and whose close connection with Oxford

[1] *Hansard*, vol. cxxxi. p. 949. The Government proposed that the new Council should consist of six heads of houses, six professors, and six members of Convocation, elected by Congregation, and one head and one professor appointed by the Chancellor. They were defeated, however, on an amendment moved by Mr. Spencer Walpole, which gave each class the right of electing its own representatives. *Hansard*, vol. cxxxii. pp. 1138, 1163.

[2] Dr., or as he then was, Mr. Jowett's answer to the Commissioners' questions will be found in the Appendix to the Report, p. 30, and cf. his *Life and Correspondence*, vol. i. pp. 174 *seq.*

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were investing him with authority, considered it hopeless to expect that the colleges, by a self-denying ordinance, would strip themselves of their advantages in order to strengthen the university, and that they must be encouraged in their task by the knowledge that, if they did not move in this direction themselves, some outside body would be empowered to act for them.[1] The Bill, which the Government introduced in 1854, and which was entrusted to Lord John Russell, bore clear traces on it of Mr. Gladstone's workmanship. In introducing it, Lord John practically spoke on the brief with which the report of the Commission had supplied him. His speech was based on the theory which no other living man was so fond of expounding—that reform, however radical it might be, was a conservative process.

'We propose,' so he said, 'to rectify abuse and not to destroy the institution; to act, as we believe, in accordance with the spirit of the founders, and not contrary to their intentions.'[2]

In accordance with this desire, the Ministry proposed that the old Hebdomadal Board should be developed into an enlarged Hebdomadal Council; 'that the body called Congregation should be remodelled'[3] and invested with new powers; and that the numerous oaths, which bound members of the university to resist innovations, should be swept away.[4]

[1] See Morley's *Life of Gladstone*, vol. i. p. 501.

[2] *Hansard*, vol. cxxxi. p. 902. For Lord John's speech see especially *Hansard*, vol. cxxxi. pp. 907-909.

[3] The words are the words of the Commission Report, p. 256. But the recommendation was practically adopted. *Hansard*, vol. cxxxi. p. 904.

[4] If argument had been necessary to justify the proposal, it would have been supplied by the Bishop of Exeter, who told the Commission that he should enjoin [the members of Exeter College] under the sacred obligation of

The proposal opened Fellowships, with few exceptions, to all comers; it modified and liberalised the conditions on which they were held. It rejected the Commissioners' recommendation that the undergraduates should be permitted to remain, outside the college, in lodgings, but it endeavoured to secure a more economical education by the institution of halls free from the traditions of the old colleges where, under the conduct of men of well-known character, extravagance would be checked.[1] Finally, it gave to colleges power to appropriate any sum, not exceeding one-fifth of their revenue, for the endowment and foundation of professorships or lectureships for the benefit of the university at large. And it entrusted to a temporary and limited Commission of five persons the power of approving any arrangement made, for the purpose of giving effect to the Act, either by the university or the college. If, however, either university or college failed to do 'what is expected of them before Michaelmas term 1855,' the Commissioners themselves were to succeed to the legislative powers entrusted in the interim to the university, and were to make the reforms which college and university had failed to introduce. This drastic, but perhaps necessary, provision was the invention of Mr. Gladstone. Such were the principal changes which the Bill introduced. There was one

their oaths, to beware how they permitted themselves to answer any inquiries, or to accept any directions or authority whatsoever, which may entrench upon the visitorial authority, solely attached to the Bishop of the See. Appendix to Report, p. 7.

[1] The idea of 'halls' more economical than colleges had been in the air for some years. Their institution had been advocated by Mr. Philip Pusey in 1845 and supported by Dr. Pusey. *Life of Pusey*, vol. iii. pp. 79 *seq.* Perhaps his support did not reconcile the Heads to their foundation.

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reform, however, which it failed to sanction. It made no provision for removing any of the tests that disqualified the Dissenters at Oxford. Perhaps it was inevitable that this should be the case. Lord John Russell, in appointing the Commission, had given it no authority to enter into this part of the subject; and though the Commissioners had continued to express a strong opinion that 'the imposition of subscription, in the manner in which it is now enforced at Oxford, habituates the mind to give a careless assent to truths which it has never considered,' they had forborne from making any specific recommendation on a subject which they had been instructed not to entertain.[1] Mr. Gladstone, moreover, on whom so large a share of the work had fallen, had not yet shaken himself free from the traditions of his earlier career, and was unprepared to weaken the Church by sacrificing any of its vested interests. The Bill, therefore, was silent on this important subject. But, in introducing it, Lord John plainly intimated that, in his judgment, the whole purpose of the university could not be regarded as fulfilled while there was a test before entrance which prevented so many persons from entering at all; and though he went on to argue that the subject should be reserved for a separate measure and for separate consideration, he plainly intimated that, when the question was raised, his vote would be given—as it had been given twenty years before—in favour of reform.

Lord John was hardly as good as his word. At

[1] Report, pp. 54–56. One of the Commissioners, Dr. Tait, had wished to go much further, to denounce the college oaths as often profane, and to recommend the Legislature to declare their imposition illegal. *Life of Abp. Tait*, vol. i. p. 169

the close of the proceedings in committee, Mr. Heywood introduced some new clauses abolishing religious tests on matriculation and on graduation. The Government—Mr. Gladstone especially—opposed this clause on the ground that the Bill, in its original shape, was a measure for emancipating the university from the restrictions which other generations had imposed on it; and that the university itself might be given an opportunity for dealing with the subject.[1] But this argument had little or no effect on the House. Though the occupants of the two front benches, with one or two exceptions, voted with Mr. Gladstone, the House rose up in rebellion against its leader. By a majority of 252 votes to 161[2] it passed the first of the two clauses which abolished the test on matriculation. The majority was so large, the feeling of the House was so strong, that Lord John Russell was inclined to yield on the second clause, abolishing the test on graduation. A Conservative member, however, had the courage to insist that the question which the House had decided, and which admitted Dissenters to the advantages of an Oxford training, did not necessarily imply that they should take part in the government of the university by their admission to degrees; and he declared that the Government, after the line which they had taken in debate, were bound to give him their support. He moved an amendment to this effect, and Lord John Russell at once admitted that, having argued for separate consideration of the subject, he should support it. The combination of the two front benches proved too strong for the independent

[1] *Hansard*, vol. cxxxiv. pp. 512, 547 *seq.*

[2] *Ibid.*, vol. cxxxiv. p. 585.

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Liberals, and by a comparatively narrow majority—205 votes to 196—the proposal to exempt the graduate from subscription was rejected.[1]

These conflicting decisions showed plainly that, while Parliament was determined to admit the Nonconformists to the advantages of a university education, it was not yet prepared to give them any share in the government of the university. Mr. Heywood wisely decided to yield to this opinion. Almost immediately after his defeat he brought up a new clause to enable undergraduates to take a Bachelor's degree without subscribing to any religious tenets. As the Bachelor's degree did not confer the vote at Convocation which the Master's degree gave, the compromise which the clause suggested exactly met the argument which had been raised against the wider proposal, and it was accordingly carried by a very large majority.[2]

For the time—since no very material alteration was made in the Bill in the Lords[3]—the question of university reform at Oxford was settled by this measure. In 1855 an attempt was made, which

[1] For Mr. Spencer Walpole's speech, see *Hansard*, vol. cxxxiv. p. 588. For Lord John Russell's *ibid.*, p. 589; for the division *ibid.*, p. 590.

[2] *Ibid.*, pp. 672, 891.

[3] Lord Selborne complained that Lord Derby, though Chancellor of the University, took a very small interest in the matter. 'The attractions of Newmarket clashed with those of Oxford.' *Memorials Family and Personal*, vol. ii. p. 202. Lord Derby's lukewarmness may, however, have been partly due to the influence of his eldest son, who warmly supported Mr. Heywood's proposals. A still stronger argument might have been found in the example of a man, like Mr. Roundell Palmer, who steadily refused to take up the question of university reform on the ground that he could make no exception in the case of his own college; and that he could not, in reason or conscience, regard the oaths (which he had taken to his college) as idle and profane forms from which he could dispense himself. See *Memorials Family and Personal*, vol. i. p. 197, and cf. the whole chapter pp. 191–205.

was renewed in 1856 with more success, to apply to Cambridge the legislation which had already been applied to Oxford. The Cambridge Bill, like the Oxford Bill, was in some respects a permissive measure. It empowered the university whose government should be reformed to legislate for its future governance, though, as in the case of Oxford, it appointed Commissioners with power to remedy any defects which the university itself might leave unremedied. It followed the course of the Oxford Bill in instituting halls where it was hoped that a cheaper education might be provided, and it went beyond the Oxford Bill in abolishing tests in the case of all degrees other than those of divinity, though it contained a proviso, due to an amendment made in the Lords,[1] that such degrees should not carry a vote in the Senate.

These reforms—of which one was carried, and the other was proposed when the mind of the country was mainly occupied with the incidents of a great war—temporarily allayed the appetite for further reform. The advantages of a university education had been thrown open to the Nonconformist, and for the moment, at any rate, he was satisfied to avail himself of the benefits which he had secured without agitating for more. But to those who looked from the present to the future it was even then plain that the compromise of 1854–1856 could not be accepted as a permanent solution of the

[1] The words which had prevented Nonconformist graduates from being members of the Senate had been struck out of the Bill in the Commons, *Hansard*, vol. cxlii. p. 1755, and were restored on Lord Lyndhurst's motion in the Lords, *ibid.*, vol. cxliii p. 310.

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question in dispute. Something could, no doubt, be urged for the old state of things under which the great universities had been regarded as the handmaids or helpmates of an Established Church, when their doors had been actually or practically closed to all those who dissented from the dogmas on which that Church was founded. But it was impossible to hope that, when the Dissenters had once been admitted within the pale, they would be permanently contented with foregoing the advantages and the prizes which a university career offered to their other fellow-students. Why should the Bachelor at Oxford be unable to take the higher degree which Cambridge could offer to him? Why should the Master of Arts at Cambridge who happened to be a Nonconformist be deprived of the vote which gave other Masters a share in the government of the university and in the selection of her representatives in Parliament? Why at both universities should the Nonconformist, however distinguished he might prove, remain incapable of competing for those Fellowships which enabled the man of science or the man of letters to prolong or continue his researches or studies without anxiety on the score of deficient income? The whole drift of political opinion was in favour of placing men of every creed on an absolute equality. And a generation which had emancipated the Roman Catholic, and which was about to admit the Jew to Parliament, could not be expected to retain the Nonconformist under a permanent disability. The whole drift of religious opinion, or rather the many currents which were carrying Churchmen hither and thither, and which were distracting—or about to

distract—the law courts with insoluble problems on the efficacy of sacraments, or the eternity of punishment, or on minor matters like the postures or the dress of the officiating clergymen, was against the Church. For it was true in 1856, as it had been true eighteen centuries before, that a house divided against itself cannot stand; and the divisions of the Church of England were opening breaches in its walls.

Thus the compromise of 1854–6 inevitably led to further changes. The circumstances of the succeeding years were not, however, in favour of reform. The Mutiny of the Sepoy army; the fall of Lord Palmerston; the parenthesis of a Conservative Administration; and the panic dread of France, which prevailed in the earlier years of Lord Palmerston's second Ministry—all these things diverted attention from the privileges of the Church and from the reform of the universities. But through the whole period the reformers were busy. At Oxford they chiefly directed their efforts to the abolition of the test on the higher degrees: at Cambridge they agitated for the freedom of Fellowships from religious restrictions; while outside the universities they carried the matter still further, and required that neither schoolmasters nor the clergy themselves should be required to subscribe to the doubtful and disputed propositions contained in the Thirty-nine Articles.[1]

[1] Mr. Dodson said in Parliament in 1863: 'The Thirty-nine Articles were said by those competent to judge to involve no less than 600 theological propositions. They comprised, no doubt, many abstruse points, which had perplexed the most acute minds in different ages. Many of these propositions related to controversies, which were not the controversies of our day, and to which, therefore, men's attention was not directed.' *Hansard*, vol. clxxii. p. 1369.

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Thus it happened that in 1863 the Church of England found itself exposed to attack. Mr. Buxton, who represented Maidstone, was asking the House to affirm that 'the subscription required from the clergy to the Thirty-nine Articles and to the Prayer Book ought to be relaxed.'[1] Mr. Dillwyn, who represented Swansea, brought in a Bill 'which dealt with the schoolmasters.'[2] Mr. Bouverie, who represented Kilmarnock, 'sought to repeal the declaration of conformity to the Liturgy of the Church of England which the Act of Uniformity required to be used by the Fellows and tutors of colleges.'[3] Finally, in the same year Mr. Dodson, who represented Sussex, presented a petition, signed by the most distinguished men at Oxford, that subscription to the formularies of faith should no longer be required as a qualification for an academical degree. In 1863, indeed, the attack was not pressed home, but, in 1864, Mr. Dodson, who was supported by Mr. Grant Duff and Mr. Goschen, introduced a measure for the abolition at Oxford of tests for the M.A. and for higher degrees. This Bill went further than the Cambridge Act of 1856, since it contained no provision that the non-conforming graduate should not vote in the senate. But it was intimated in debate that such a provision could be introduced in committee; and the Bill was accordingly carried by a considerable majority.[4] This majority was, however, rapidly reduced at the subsequent stages of

[1] *Hansard*, vol. clxxi. p. 574. Sir George Grey, on the part of the Government, moved the previous question. *Ibid.*, p. 599.

[2] The words quoted in the text are from a speech by Mr. Henley. *Ibid.*, vol. clxxii. p. 1372. For the Bill, *ibid.*, vol. clxxi. p. 1064.

[3] *Ibid.*, vol. clxxii. p. 1369.

[4] 211 votes to 189. *Ibid.*, vol. clxxiv. p. 158.

the measure. The third reading was only carried by the casting vote of the Speaker; its opponents naturally saw their opportunity, and, by a final effort succeeded [1] in rejecting the motion that the Bill do pass by a small majority.

The loss of the Bill was due to the failure of its supporters to introduce in committee the amendments which some of them had foreshadowed. The Bill emerged from committee without any provision similar to that which disabled the Nonconformist graduate at Cambridge from voting; and, in consequence, men in high position like Sir George Grey, who had supported its second reading, walked out of the House on the final division, while men like Mr. Gladstone, who had declined to vote on its earlier stages, voted against the measure.

In 1865 the campaign was continued under the guidance of Mr. Goschen, who was just commencing, as member for the City of London, a career destined to carry him to the higher offices of the State. Mr. Goschen introduced a Bill enabling the Dissenter to proceed to the M.A. degree irrespectively of his religious opinions. He frankly avowed that it was his intention that the grant of the degree should admit its recipient to all the privileges which a Master of Arts already held, including among them a share in the government of the university. The principle of the Bill was that academical degrees in the University of Oxford should for the future be

[1] The motion for going into committee was carried by 286 votes to 226. *Hansard*, vol. clxxv. p. 1002. A motion to reject the third reading was only lost by 150 votes to 140, the third reading itself was carried by the Speaker's casting vote, the number voting on each side being 170, and the final motion that the Bill do pass was rejected by 173 votes to 171. *Ibid.*, vol. clxxvi. pp. 666–678.

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independent of religious tests. The result would have been to confer on all graduates the same privileges. 'We contend,' so he added, 'for the principle for its own sake. We avow the results and are prepared to defend them.'[1] Mr. Goschen's language was a proof that the question as a whole had made progress in the preceding months, and this was confirmed by the division. For, notwithstanding Mr. Gladstone's opposition, the second reading was carried by a majority of 206 votes to 190.[2] The session, however, was already approaching its conclusion, and Mr. Goschen did not consequently find it possible to follow up his victory. A little later the Bill was withdrawn.[3]

If, however, nothing was done in the session of 1865 for the abolition of tests in universities, another step toward the promotion of religious liberty was taken. The Government, on the unanimous recommendation of a large representative Commission appointed in the previous year, decided to abolish the whole of the existing declarations required from the clergy, and to substitute for them a perfectly new form. The old form had required the clergy to declare that 'they accepted all and everything contained in the Prayer Book or the Thirty-nine Articles,' while the new form merely called on them to 'affirm their acceptance of the doctrine of the Church contained in those books as a whole, without pledging themselves to a belief in every assertion and every dogma that the Church in those books might have laid down.' Except that Trench, who had lately been promoted to the Archbishopric

[1] *Hansard*, vol. clxxx. pp. 186, 187.

[2] *Ibid.*, p. 247.

[3] *Ibid.*, p. 915.

of Dublin, and who had himself served on the Commission, objected to its passage on the ground that Convocation in Ireland had not been formally consulted, the measure met with general acceptance, and encountered no opposition.[1] But the passage of the measure created a new anomaly. For 'the Church Fellow at a university was now subject to a severer test than the beneficed clergyman.'[2]

This anomaly naturally led to fresh attempts at legislation, and in 1866, 1867, and 1868 measures were introduced throwing open degrees and college offices to dissenters from the Church of England. The charge of the Bill of 1866 was entrusted to Mr. Coleridge, who, in the preceding year, had just commenced as member for Exeter a career which was to carry him to the Chief Justiceship of England, and to shed new lustre on one of the most brilliant families of the nineteenth century.

There were many reasons for selecting Mr. Coleridge for the purpose. His father had served on the Oxford Commission of 1864; he was known himself, at that time, as a strong churchman, and he was on terms of intimate friendship with many Oxford men, and especially with Sir William Heathcote, the representative of the university in Parliament. It was felt that 'no one could complete the work of throwing open the university to Nonconformists with less friction and less offence than the High Church

[1] For this Bill see *Hansard*, vol. clxxix. p. 595. For Archbishop Trench's opposition *ibid.*, p. 959. For Mr. Buxton's speech, from which the quotations in the text are taken, *ibid.*, vol. clxxx. p. 646. The new declaration will be found in many places, *e.g. ibid.*, p. 636. The Act is the 28 & 29 Vict. c. 132.

[2] Professor Campbell, *The Nationalisation of the Old English Universities*, p. 139.

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son of a High Church father.'[1] In 1866, 1867, and 1868, Mr. Coleridge accordingly introduced a Bill abolishing religious tests at Oxford. In 1866, the Bill passed the second reading by a considerable majority; in 1867 its operations were enlarged by its extension to Cambridge; and, in 1868, the Bill, thus enlarged, became an Oxford and Cambridge Universities Bill. But success did not attend any of these efforts. The Bill of 1866 was withdrawn after the fall of the Government.[2] The Bill of 1867, after passing the House of Commons, was lost in the Lords. The Bill of 1868 had no chance of becoming law in a House which was anxiously preparing for the impending dissolution, and it was withdrawn. The Parliament of 1865 had evidently approached the subject with more sympathy than the Parliament of 1859. But the Parliament of 1865 had proved as powerless as its predecessor to overcome the resistance of the Church.[3]

The democratic wave, however, which swept over England in 1868 was not favourable to the retention of Church privileges. A reform which had hitherto been demanded by men of mark both in and out of

[1] *Life of Lord Coleridge*, vol. ii. p. 41.

[2] The Bill of 1866 was carried on the second reading by 217 votes to 103, *Hansard*, vol. clxxxii. p. 712. For the rejection of the Bill of 1867 by the Lords, *ibid.*, vol. clxxxix. p. 43. For the extension of this Bill to Cambridge, *ibid.*, vol. clxxxvi. p. 1443. The Bill of 1858 was carried by only 198 votes to 140, *ibid.*, vol. cxciii. p. 426, and withdrawn. Cf. on the whole subject *Life of Lord Coleridge*, vol. ii. pp. 49–67.

[3] It ought to be added that in 1867 Mr. Ewart introduced a Bill opening the benefits of education at the universities to students without obliging them to be members of a college, and that Dr. Jowett had already anticipated the passing of the measure by persuading the Balliol tutors to give gratuitous education to poor students so lodging out and paying no college fees. See *Life and Correspondence of Jowett*, vol. i. pp. 378, 379, and *Hansard*, vol. clxxxvii. p. 1613.

Parliament was attracting attention on the platform, and a House, elected to do justice to Ireland by the disestablishment of the Irish Church, was not likely to pay much respect to the interests of English Churchmen. Two other facts, moreover, strengthened the hands of the reformer. The men who refused to sign the Thirty-nine Articles were making an unexpected display of their qualities and worth. The Senior Wrangler of 1869 was a Jew;[1] and, in a period of nine years, no less than seven men who could not conform to the tenets of the Church attained the same distinction.[2] Was it possible that these men, who, by their abilities and their attainments, were gaining honour for themselves, and adorning their university, should be permanently deprived of the rewards which would have been gladly offered as a matter of course to any graduate ready to subscribe to the Thirty-nine Articles? A still greater change in the position of the question was following the gradual alteration of the views of the Prime Minister upon it. Mr. Gladstone, indeed, was a long time in deciding to abandon the cause of the Church, to which, from the first to the last day of his career, he adhered with such devotion. But, in 1869, he allowed Mr. (then Sir John) Coleridge to bring forward his Bill from the vantage ground of the front bench, on which he was now sitting as Solicitor-General.[3] This

[1] *Hansard*, vol. cxciv. p. 1043.

[2] Mr. Stirling, the Senior Wrangler in 1860, who lived to become Mr. Justice Stirling, was a Scotch Presbyterian. Mr. Aldis, the Senior Wrangler of 1861, was an English Dissenter. Mr. Aldis's two younger brothers greatly distinguished themselves in 1863 and 1866. Mr. Hartog, the Senior Wrangler of 1869, was a Jew. See Leslie Stephen, *Life of Fawcett*, pp. 235, 247. Campbell, *The Nationalisation of the Old English Universities*, p. 155.

[3] Mr. Morley says that 'when he had been two years at the head of administration' Mr. Gladstone still objected to the complete secularisation of the

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Bill compulsorily removed all the tests imposed by the universities themselves and set free the colleges from any restrictions that had been imposed by Parliament upon their liberty of action.[1] It passed the House of Commons without a division.[2] The attitude of the Commons perhaps affected the views of the Lords. For instead of rejecting the Bill on its merits, they got rid of it by moving and carrying the previous question.[3] Perhaps the Peers who adopted the device had reason to regret the attitude which they had assumed. The Bill of 1869 had been introduced by the Solicitor-General, indeed, but by the Solicitor-General in his private capacity. In 1870 the Bill was again brought in, this time as a Government measure, and recommended in the Speech from the Throne. The Bill of 1869 had set the colleges free to deal with their own Fellowships; the Bill of 1870, influenced no doubt by opinion at Cambridge[4] which was opposed to this permissive legislation, decided this question on the authority of Parliament. The Bill of 1869 had been shelved in the Lords by raising the previous question. The

colleges, adding 'I incline to think that this work is work for others, and not for me.' *Life of Gladstone*, vol. ii. p. 314. But I am unable to reconcile this with Mr. Gladstone's letter to Mr. Roundell Palmer of the 10th November, 1869, quoted by Professor Campbell, *Nationalisation of the Old English Universities*, p. 159.

[1] See Sir J. Coleridge's speech, *Hansard*, vol. cxciv. p. 1042.

[2] There was a division on a motion for the adjournment of debate on the second reading, on which the Conservatives were decisively defeated (251 votes to 75). See *Hansard*, vol. cxciv. p. 1450.

[3] *Ibid.*, vol. cxcviii. p. 143. I use on this and on other occasions popular language, but, in effect, the previous question, 'Whether the said question shall be now put,' is the one question on which those who raise it vote in the negative.

[4] Mr. Fawcett had divided the House against the Government on this point in 1869. In 1870 Sir J. Coleridge 'admitted explicitly that Fawcett had been right, and that he himself had been wrong.'

Bill of 1870 was more decently interred in the deliberations of a Select Committee.[1]

It was obvious that the end was now very near. Reintroduced in 1871, while Lord Salisbury's Select Committee was still conducting the inquiry which it had failed to complete in 1870, and which it had been permitted to resume, the Bill rapidly passed through all its stages in the Commons. In the Lords, an amendment was introduced requiring the teaching staff of the university to make a declaration that they would teach nothing 'contrary to the divine authority of the Holy Scriptures.'[2] But the Commons declined to accept an amendment which would have introduced a new test; even many Conservatives felt that its introduction would only lead to new agitation and irritation.[3] The Lords found themselves obliged to give way and to refrain from insisting on a clause which would have had no effect in safeguarding the interests of the Church; and the Bill became law.

By this Bill, in the words of its preamble, the 'divers restrictions, tests and disabilities' by which 'many of her Majesty's subjects had been debarred from the full enjoyment' of the benefits of the universities of Oxford, and Cambridge, and Durham were swept away; and these 'universities, and the colleges

[1] Lord Salisbury carried an amendment to the division on second reading to the effect that in any measure for enabling persons, not members of the Church, to hold offices in the universities, it was essential to provide, by law, proper safeguards for the maintenance of religious instruction, and subsequently obtained a Select Committee to consider the best mode of giving effect to his resolution. *Hansard*, vol. cciii. pp. 203–232.

[2] The amendment had originally been suggested by Mr. Roundell Palmer (Lord Selborne), vol. i. p. 338. It was adopted by Lord Salisbury's Select Committee and proposed by Lord Salisbury himself, *Hansard*, vol. ccvi. p. 338.

[3] See Mr. Spencer Walpole's speech in *ibid.*, p. 1192.

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and halls subsisting therein,' were 'rendered freely accessible to the nation.' The victory, indeed, was still incomplete. 'Sinecure Fellowships were still permanent in many colleges. The obligation on celibacy was not removed; and above all, the clerical restriction on Fellowships and Headships was largely retained.[1] But the main object at which the reformers had steadily aimed was finally secured. Men of all denominations—men, even, of no denomination—could thenceforward enter a university without restriction, and pursue a university career without encountering any disabilities. The universities were no longer nurseries of the Church. They became thenceforward the property of the nation. With their area enlarged, with their opportunities increased, with their ideas extended, they entered on a new period of their history.[2]

In the year which preceded this great revolution another striking revolution was accomplished by the Government on its own responsibility. In the first half of the nineteenth century clerkships and other appointments in the Civil Service of the Crown

[1] Professor Lewis Campbell, *The Nationalisation of the Old English Universities*, p. 179. The abolition of clerical Fellowships was carried some years afterwards on the report of a Commission appointed by Mr. Disraeli's Government, 1877. *Life of Fawcett*, p. 249.

[2] It is interesting to reflect that the Ecclesiastical Titles Act, which had created so much heat on its first introduction (*Hist. of England*, vol. v. pp. 422, 429), was repealed in 1871. For the twenty years during which it had encumbered the Statute Book it had remained a dead letter. It had not prevented Cardinal Wiseman from assuming the title of Archbishop of Westminster; it had not prevented Mr. Manning from being appointed to the same office in 1865. When the law was thus disregarded in the home of the Legislature, it was naturally equally inoperative throughout the length and breadth of the land. The propriety of its repeal had been frequently considered. In 1867 a Select Committee of the Commons had recommended its repeal; in 1868 a Select Committee

were filled up by the Minister in whose department they occurred, without any test being applied to the competitor or the nominee of capacity to fulfil the duties which he was to discharge. Under such a system many places were inevitably bestowed on candidates who were either the relatives or the friends of the Minister, or were recommended to him by some of his supporters. The inferior places in the service were, indeed, at the disposal of the Patronage Secretary of the Treasury and were openly allotted to the supporters of his Ministry, to be bestowed on his constituents. The system, therefore, provided no assurance that the men selected for the higher offices should be qualified by their attainments and education for the places for which they were chosen; and it made the lower places in the service merely instruments for corrupting the constituencies. In 1853 two men of eminence—Sir Stafford Northcote and Sir Charles Trevelyan—appointed to inquire into the organisation of the Civil Service, had the wisdom to recommend that this system should end, and that a system of open competition should be substituted in its place. Their proposal naturally excited a good deal of

of the Lords had advised its retention. The general election of that year, which swept away so many landmarks, incidentally destroyed the little power against Popery which, for twenty years, had never proved a real obstacle to any papist. In 1870 a Bill for the repeal of the Act was actually introduced in the Lords, and sent down to the Commons. The Commons, however, refused to accept it in the shape in which it had been moulded by the Conservative amendments in the Lords, and the Bill was dropped, to be reintroduced, in the desired shape, in another year in the Commons, and to become law. For the Bill of 1870, *Hansard*, vol. cci. p. 1469, and vol. cciii. pp. 1528, 1593. For the Bill of 1871 *ibid.*, vol. cciv. pp. 273, 780, 1355, and vol. ccvi. pp. 1950 *seq.* The intermediate history of 1867 and 1868 will be found conveniently summarised by Mr. Newdigate in *ibid.*, vol. cciii. pp. 1529, 1530.

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opposition. Men who had grown old in the service, and men of undoubted fitness who had been introduced into the service, disliked the notion of filling these offices with men of whose antecedents and connection they knew but little; and a famous novelist, who passed much of his life in the Civil Service of the Crown, ridiculed Sir Charles Trevelyan as Sir Gregory Hardlines.[1] The Government, however, was forced to take some action; and, in May 1855, an Order in Council was issued appointing two gentlemen—Sir John Lefevre, the brother of the then Speaker, and Sir Edward Ryan, a barrister who had served with distinction as Chief Justice of Bengal—to be Commissioners to examine and certify the qualifications of all young men proposed for junior places in any department of the Civil Service. The proposal evidently fell short of the recommendation on which it had been based; and an effort was made in Parliament in the following July—which was only defeated by a comparatively narrow majority of fifteen—to secure open and public examinations.[2] This division materially strengthened the hands of the reformers. The introduction about the same time of open competition as a method of admission to the Civil Service of India[3] showed that no insuperable difficulty barred the way; and Ministers found it necessary to defer to public opinion by introducing a system of limited competition under which, as a rule, three candidates were nominated

[1] Trollope's *Three Clerks; Life and Correspondence of Benjamin Jowett*, vol. i. p. 185.

[2] *Hansard*, vol. cxxxix. p. 675. The motion was rejected by 140 votes to 125, *ibid.*, p. 744; but several Conservatives, including Lord Stanley, Sir Stafford Northcote, and Mr. Adderley (Lord Norton), voted with Mr. Gladstone in the minority.

[3] This change was largely due to Mr. Lowe. See *Life of Lord Sherbrooke*, vol. i. pp. 421, 422.

by a Minister to compete for one vacancy.[1] This modification, while diminishing the responsibility of the Minister, increased his patronage by enabling him, in the case of each vacancy, to put three men instead of only one man under an obligation to himself. A Select Committee of 1860—over which Lord Stanley presided—declared the existing system to be a delusion to the public and a fertile source of abuse, and recommended that in future junior clerkships should be thrown open to public competition.[2] Delusion and abuse, however, take sometimes a long time in dying; and it was only in 1870 that a step was taken which practically threw open the whole Civil Service of the Crown to the nation at large.[3]

Coming as it did in 1870, the change was specially important. For the same period, which was opening the universities to all creeds, was opening the Civil Service to all classes. Perhaps no greater encouragement could have been given to the cause of higher education. Thenceforward nothing prevented any youth with brains and knowledge from taking his part as a member of the Civil Service, either in India or at home. The political effects of the change were even more remarkable. Mr. Lincoln's famous phrase, 'Government of the

[1] This system, promised in 1856, was only slowly adopted. But Lord Palmerston, in 1857, found it necessary, on a motion by Lord de Grey, to pledge his Ministry to its adoption. *Hansard*, vol. cxlvi. pp. 1463, 1483.

[2] See *Hansard*, vol. clxvi. pp. 336-338.

[3] The point was urged by Mr. Lowe on Mr. Gladstone, who had from the first advocated the change. It was resisted by other members of the Cabinet; and Mr. Gladstone finally got rid of the opposition of his colleagues by determining that all branches of the Civil Service should be thrown open where the Minister at the head of the department approved. *Life of Gladstone*, vol. i. p. 315.

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people, by the people, for the people,' received a new illustration when democracy insisted, and aristocracy consented, that the places which had been reserved for the patronage of the upper classes of society should in future be open to all. Like many other reforms which were the work of the nineteenth century, it required expansion before it was made thoroughly effective. Anglo-Indians complained that, good as the new recruits were proving themselves, many could not ride; and a knowledge of riding was added to the other qualifications required. Possibly some similar addition may ultimately be made to the qualifications required of Civil servants at home. An Imperial race should encourage the physical as well as the intellectual development of her children; and perhaps in some future day the Civil Service Commission may be made as effectual for the one object as it has already proved for the other.

The change had opened the door of the Civil Service to the people. In the session in which it was made, the higher ranks of another profession were also opened to the public. Commissions in the army, indeed, were frequently given to poor men; but poor men had little or no chance of promotion, at any rate in time of peace. For, from the reign of Queen Anne, promotion—except in the case of vacancies arising from death—was only granted on the purchase of the step which was vacant. The sum to be so paid on the purchase of each step was fixed by regulation. But, in addition to the regulation price, much higher sums were usually asked and obtained for promotion in the more popular regiments. The system entailed two inconveniences. In the first place the poor man, who had no capital at disposal,

and who was consequently unable to purchase his step, was doomed to see himself passed over, time after time, by officers junior, and not necessarily superior, to himself. But, in the next place, the chiefs of the army were debarred by the right to purchase from selecting the best men for advancement. They had to entrust, for example, the command of a regiment, not to the best available officer, but to the officer who could afford to pay the regulation and over-regulation price.

The system was so obviously unfair to the poorer men, and so opposed to the highest interests of the country, that it had been frequently denounced. It had never been condemned in stronger language than by a Commission, which had the Duke of Somerset as its President, and which reported in 1857.[1] The Commission, after describing it as 'vicious in principle, repugnant to the public sentiment, and inconsistent with the honour of the military profession and with the policy of the British Empire,'[1] affirmed that it impaired the efficiency of the army by giving an undue pre-eminence to wealth, by discouraging exertion, and by depressing merit; and the Commission went on to point out that the selection of an incompetent commander might lead to the loss of a battalion; the loss of a battalion to the loss of a battle; and the loss of a battle to serious disaster to the Empire.[2] The Commission, among whom were such men as Mr. Sidney Herbert, the idol of Conservative Liberals, and Lord Stanley, the hope of Liberal Conservatives, recommended that lieutenant-colonels, at any rate, should, in future, owe their promotion

[1] The report is in *Parliamentary Papers*, 1857, vol. xviii. p. 1.

[2] *Ibid.*, and cf. *Hansard*, vol. cciv. p. 339.

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to their merit and not to their wealth; and, in 1860, Lord Palmerston's Cabinet approved and adopted the recommendation.[1] But the decision of the Government led to no results. It proved, in practice, impossible to deal with the subject piecemeal; and Lord Palmerston, ready as he was to devote millions to the construction of fortifications which, in many cases, proved obsolete before they were completed, had no million to spare for a reform that would have placed a poor officer on a level with his richer comrade. In these circumstances, the Government, in 1861, reconsidered the resolution which they had arrived at in 1860; and in 1862, the House of Commons, assured by Sir George Lewis that the abolition of purchase in the case of lieutenant-colonels would lead to the abolition of purchase generally, and would involve a cost exceeding 7,000,000*l.*, refused to accept a motion for carrying out the recommendation of the Commission, brushing it aside by a majority of four to one.[2]

The decision of Lord Palmerston and of the House of Commons accurately reflected the opinion of the classes from which the officers of the army were mainly drawn. They thought that the purchase system, by encouraging officers to retire at an early age, provided means for the more rapid promotion of those below them; and the rich man saw nothing more immoral in paying a few thousands for one son's advancement in the army than in investing another few thousands in a living for a second son's advancement in the Church. It was true that one transaction

[1] *Hansard*, vol. clvii. p. 59.

[2] The House passed to the orders of the day by 247 votes to 85. See *Hansard*, vol. clxvii. p. 221, and cf. *ibid.*, pp. 201, 202.

involved a breach of the Ecclesiastical law just as the other transaction involved a breach of the Statute law.[1] Laws of this kind are easily evaded. Young officers who had notoriously paid an over-regulation price for their commission found no difficulty in declaring 'on their honour' that they had done nothing of the kind. Honourable men, members of an honourable profession, were compelled at any stage in their career to pledge their honour to a statement which they knew to be in effect, if not in letter, untrue.

There were men, both in and out of the army, who had long deplored this state of things. Sir G. de Lacy Evans, who had begun his military career as an ensign in the Peninsula, and who had concluded it as a general in the Crimea, endeavoured in 1861 and 1862, as member for Westminster, to induce the House of Commons to deal with it. Sir Charles Trevelyan, who was best known in his own life as the permanent head of the Treasury, but whom posterity will perhaps chiefly remember as the brother-in-law of Lord Macaulay, strenuously advocated the abolition of the system. Sir Charles's son, who had entered the House of Commons at a comparatively early age, had advocated by speech[2] the reforms for which his father had contended with his pen. Mr. Trevelyan's abilities had secured him a subordinate position in Mr. Gladstone's Ministry; his conscientious objection to the Education Act of 1870 had involved his retirement; and he was consequently free as an independent member to resume the advocacy of a cause

[1] An Act of 1865 imposed heavy penalties on those who gave over-regulation prices for commissions.

[2] See for example his motion in 1867. *Hansard*, vol. clxxxix. p. 1787.

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with which his name was so closely associated. It happened, indeed, that Mr. Trevelyan's advocacy on this subject was not required. In the comprehensive reforms which he was introducing into the administration and organisation of the army,[1] Mr. Cardwell found that the existence of the purchase system was a fatal obstacle to real efficiency. An innocuous proposal to abolish the rank of cornet and ensign, which he made in 1870, had at once raised a protest on the effect that the change would make on the value of over-regulation prices.[2] It was hardly possible to retain a system which made it difficult to effect a minor reform of this kind. Greater reasons for the change existed in abundance. No man could make sure that the command of a regiment should be always entrusted to a competent officer, when wealth and not merit was the passport to promotion. And the most economical of administrators was thus driven to the conclusion that true economy required that, whatever might be the cost, purchase should, for the future, cease.

In deciding to deal with the purchase question, Mr. Gladstone's Government had two courses before it. Purchase was the creation of regulation. It had been prohibited by one monarch, it had been revived by another, it had been regulated by a third, it had been sanctioned, under the authority of a statute, by a fourth.[3] What a king or queen had done, a queen might undo, and it was unquestionably within the competence of the Crown to issue an Order in Council

[1] For these reforms see *supra*, vol. ii. pp. 418 *seq.*

[2] See the *Times*, 21st July, 1871.

[3] See Mr. Cardwell's speech: 'It was prohibited by William III. for a short time; but it was revived in 1701; and in 1711 rules, and in 1719 regulations, with respect to it were made.' *Hansard*, vol. cciv. p. 338.

that purchase should cease. Ministers, however, considered that, even if they took that course, they would have to apply to Parliament to indemnify the officers for the illegalities of which they had been guilty,[1] and to compensate them for the expenses to which they had been put. They accordingly thought it wiser to apply, in the first instance, to the Legislature for authority to destroy the system which they had decided no longer to tolerate. In taking this course they were probably misled by the attitude of the House of Commons, and by reliance on the support of the country. Mr. Muntz, indeed, the member for Birmingham, had the courage to tell a meeting of his constituents that the abolition of purchase would cost 7,000,000*l.*, and to ask them whether they would agree to such an expenditure for such a purpose; and the meeting had unanimously acquiesced.[2] Confirmed in their opinions by a demonstration of this character, and recollecting that the Peers, both in 1869 and 1870, had deferred to the views of the Commons on measures in themselves more distasteful to a Conservative assembly, Ministers probably thought that they might rely on the House of Lords again giving way and accepting a settlement which, whatever merits or demerits it may have had, was undoubtedly conceived in a spirit of liberality to the officers of a great service.

Symptoms there were, indeed, even while the

[1] The Act 49 Geo. III. cap. 126, 'An Act for the prevention of the sale and brokerage of offices,' excepted purchases and sales of commissions at such prices as may be regulated. The officers who had notoriously paid over-regulation prices were therefore liable to the penalties of the Act.

[2] See a report of the meeting in *Ann. Reg.*, 1871, Hist. p. 22.

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measure was before the Commons, that the opposition to it was likely to prove stubborn and protracted. For although its opponents did not attempt to contest the main issue, they availed themselves of the forms of the House to thwart its progress. They met the motion for the second reading with an amendment declaring that 'the expenditure necessary for the National Defence and the other demands on the exchequer do not at present justify any vote of public money for the extinction of purchase.'[1] They met the motion for going into committee with a suggestion that, in justice to the service, every officer should at once be paid the regulation price of his commission.[2] They met the third reading, as they had already met the second, by a fresh appeal to the economical instincts of the House.[3] Their opposition was undoubtedly fortified by the public knowledge that in the army itself a strong dislike was felt to the measure, and by the rumour that the Duke of Cambridge, the Commander-in-Chief, was personally opposed to the change, and was supported in his opinion by the Queen herself. The opposition was so sustained and so protracted that the Ministers found it necessary to lighten their ship by the familiar device of throwing some of their cargo overboard, and the Bill, which, in its original shape, was a Bill of Army Reform, became in its ultimate form little more than a Bill for the abolition of purchase.[4] The determined attitude of a large and

[1] *Hansard*, vol. cciv. p. 1307.

[2] *Ibid.*, vol. ccvi. p. 405. The Government Bill appointed a small Commission authorised to pay each officer, on his retirement, the sum which, in their opinion, he would have obtained if purchase had been maintained.

[3] *Ibid.*, vol. ccvii. p. 1002.

[4] *Ibid.*, vol. ccvi. p. 1906; cf. Morley, *Life of Gladstone*, vol. ii. p. 362.

important minority of the Lower House strengthened the position of the Lords, and, on the motion for the second reading of the Bill, the Duke of Richmond proposed and carried an amendment[1] expressing the unwillingness of the Peers to assent to the principle of the measure till they had before them a complete and comprehensive scheme for the appointment, promotion, and retirement of officers, and for placing the military system of the country on a sound and efficient basis.

The passage of this amendment placed the Government in a position of great difficulty. A large portion of the time of the session had been devoted to this particular measure; and, in consequence, many of the other measures formally announced in the Queen's Speech of the preceding February had been sacrificed. The Government could not conveniently postpone, for treatment in another year, a reform which, for good or for evil, vitally affected the interests of the officers of a noble profession, and which the House of Commons had decided on passing. And it did not diminish the embarrassment in which the Ministry found itself to reflect that, by a little better management, the crisis which had arisen need never have occurred at all. For, though a great deal could be said for the course which had been taken of consulting the House of Commons on a proposal involving the expenditure of millions of public money, constitutional practice hardly required that a similar opportunity should be afforded to the Lords. No one denied that the purchase system existed by the act of the Crown, and was based on the authority with which the Crown had been invested by a statute of the preceding century; and it followed that the

[1] *Hansard*, vol. ccvii. p. 1544.

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Crown, by its action, could at any moment terminate a system of its own creation. In the circumstances no valid objection could have been raised if the Crown, on the advice of its Ministers, had issued a warrant terminating purchase immediately after the principle of the measure had been affirmed by the House of Commons. The House of Commons, in that case, would have readily assented to the grant of adequate supplies for the purpose, and the House of Lords would have been left with the alternative of assenting to the Bill or of depriving the officers of the compensation which the Bill afforded. Unfortunately, however, the Ministers had not taken this course. On the contrary, by asking the House of Lords to consider the Bill in the ordinary way they tacitly implied that the consent of the House was essential to the adoption of the scheme. The passage of the Duke of Richmond's amendment opened their eyes to the mistake which they had made, and the Cabinet meeting on the following day decided on advising the Queen to issue her warrant abolishing purchase. This proceeding naturally created a strong feeling both inside and outside Parliament. It was said, with some exaggeration, that Ministers were using the prerogative of the Crown to override the decision of one branch of the Legislature. Ministers were, of course, doing nothing of the kind, for the warrant of the Crown was based, not on prerogative, a thing 'in some sort beyond law,'[1] but on the statute of George III. If, however, it is an exaggeration to say that the Prime Minister fell back

[1] See an excellent article by Mr. Freeman quoted by Mr. Morley, *Life of Gladstone*, vol. ii. p. 365, and cf. Lord Selborne's opinion in *Memorials Personal and Political*, vol. ii. p. 193.

on prerogative to control the Legislature, it is, at least, certain that, after unnecessarily deciding to ask the House of Lords to concur in his policy, he overrode its decision by his action. Mr. Gladstone persuaded himself that it was his 'indispensable duty to extinguish a great, widespread, and most mischievous illegality of which the existence had become certain and notorious.'[1] But abuses which have existed for a hundred years may usually be left uncorrected for another twelve months, and even Radicals, with little or no feeling for the House of Lords, thought, and thought rightly, that there was more harm in overriding the votes of a branch of the Legislature than good in abolishing an illegal practice.

The unconstitutional[2] course of the Minister was, at any rate, successful. The Lords could not refuse compensation to army officers, and they were compelled to accept the measure which they disapproved. Before passing the second reading, indeed, they thought it right to declare that 'the interposition of the executive was calculated to depreciate and neutralise the independent action of the Legislature,'[3] and, for once, the language and attitude of the Peers reflected opinion in the country. Even in the House of Commons the severest criticism on the conduct of the Ministry came from the Liberal benches.

[1] Morley, *Life of Gladstone*, vol. ii. p. 364.

[2] I use the word unconstitutional, in the sense of not customary; for, under our system, that which is constitutional is only that which is customary.

[3] The exact words were 'the interposition of the executive during the progress of a measure submitted to Parliament by Her Majesty, in order to attain by the exercise of the prerogative, and without the aid of Parliament, the principal object included in that measure, is calculated to depreciate and neutralise the independent action of the Legislature.' The motion was carried by 162 votes to 82. *Hansard*, vol. ccviii. pp. 454–540.

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Not only moderate men like Mr. Horsman and Mr. Bouverie, but convinced Radicals like Mr. Torrens and Mr. Fawcett, raised their voices in protest against the arbitrary action of the Ministers.[1] It was widely felt that, bad as purchase was, indefensible as the constitution of the House of Lords might be, arbitrary government was even a worse thing than army purchase and an hereditary and, therefore, irresponsible Legislature. 'Scores of men' —so it was said in the House of Commons—'would rather have seen purchase continued for the next ten years than have seen a Liberal Minister resort to the exercise of the Royal Prerogative.'[2]

Judged by its results, after the scenes which it witnessed have long faded away, the session of 1871 seems worthy of remembrance. A session in which tests at the universities were swept away, in which the Civil Service was thrown open to competition, in which purchase in the army was destroyed, appears to rest on a different plane from the years which were merely occupied with the party struggles of the Tadpoles and the Tapers on either side of the Speaker's chair. At the time, however, men were little influenced by such considerations as these. They were much more occupied with the failures than with the successes of the session. The Government programme had broken down from its own weight; it had proved once more impossible to drive several omnibuses abreast through Temple Bar; and the energies of the Government, after Easter, seemed absorbed by inquiring, not what

[1] For Mr. Bouverie's speech, *Hansard*, vol. ccviii. p. 29. For Mr. Horsman's, *ibid.*, p. 34. For Mr. McCullagh Torrens', *ibid.*, p. 1387. For Mr. Fawcett's, *ibid.*, p. 1568.

[2] See Mr. Fawcett, *ibid.*, p. 1660.

measures they could carry, but which of them they could abandon. The necessity of finding time to carry the Westmeath Bill, and to discuss the endless objections raised to the abolition of purchase, hampered the Ministry at every moment. It seemed impossible to save the ship without abandoning the cargo. The Army Regulation Bill became an Abolition of Purchase Bill; a Bill which Mr. Goschen introduced early in April for bringing a little order into the confusion of local finance by consolidating the various petty rates and providing for their collection in each parish by one authority,[1] was relinquished early in May; a Bill which Mr. Bruce had introduced for regulating the sale of intoxicating liquors[2] was withdrawn at the same time. Nothing remained of the measures except the unpopularity of having proposed them. For Mr. Goschen, by subjecting some kinds of property to rates which had hitherto escaped assessment, had alarmed the country gentlemen, and Mr. Bruce, by his proposals of reform, had driven the licensed victuallers into opposition.[3] The discontent of these classes was increasing the disorganisation into which the great Liberal party was already falling, and men were already complaining that the Ministry which was harassing classes was mismanaging affairs. 'The conduct of public business in the House of Commons during the present session' —so wrote the 'Times' early in June—'has been more injurious to its reputation than the shortcomings of years full of passionate incidents. Nothing is

[1] *Hansard*, vol. ccv. p. 1115.
[2] *Ibid.*, p. 1062.
[3] Mr. Cardwell said to Mr. Goschen, from whom I have the anecdote: 'Nothing has gone right with us since you alienated the country gentlemen by your Local Government Bill and Bruce alienated the licensed victuallers by his Licensing Bill.'

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done, legislation is at a deadlock.'[1] 'The events of the session,' said a Liberal member a little later, 'had sorely tried the faith of the public in Parliamentary institutions.' And he proceeded to affirm that 'without going over the melancholy recital of the faults, the errors, and the blunders of the present Government,' they had to endure 'an inefficient Administration,' and a feeble Opposition.[2] Even the occupants of the front Ministerial bench admitted the same thing. Writing in the following October the Solicitor-General referred to 'the wretched exhibition of last session.'[3]

Disorganisation in a public assembly is always partly attributable to some defect in its leaders. And the fact was that, in 1871, the Ministers, after a little more than two years of office, were out of touch with their own supporters. The Nonconformists had not forgiven them the Education Act of 1870; the people had not forgiven them the tame and spiritless foreign policy which had led to the Conference of London; the working classes were not reconciled to the reduction of dockyards, and attributed the loss of the Captain in 1870, followed as it was in 1871 by the loss of the Megæra and the stranding of the Agincourt,[4] to some defects in

[1] *Times*, 8th of June, 1871.

[2] Mr. Fawcett in *Hansard*, vol. ccviii. p. 1058.

[3] *Life of Lord Coleridge*, vol. ii. p. 176.

[4] The Agincourt was run on the Pearl Rock, near Gibraltar, in full daylight on the 1st of July through the negligence, to use a mild word, of the Admiral commanding the squadron. Admiral Wellesley and Rear-Admiral Wilmot were directed to strike their flags, and Captains Wells and Beamish, who commanded the Minotaur and Agincourt, the leading vessels of the port and starboard divisions of the fleet, were superseded. *Times*, 19th July and 19th August, 1871. The Megæra, a troopship, had been despatched to Australia, after some doubts had been expressed in Parliament as to her seaworthiness. She was run ashore in a sinking state half-way between

Admiralty administration. They regarded the increase of expenditure, due to the Franco-German war, as a conclusive proof that retrenchment in 1869 and 1870 had been carried too far. The legislative proposals of 1870 had increased the general distrust. The military men disliked the abolition of purchase; country gentlemen resented Mr. Goschen's proposal to extend the system of rating to property which had never been rated before; and the licensed victuallers were alarmed at the restrictions which Mr. Bruce was proposing to impose on their trade. And it was not merely in such matters as these that the drift of opinion was setting against the Ministry. In minor matters the House of Commons was displaying a reluctance to follow the lead of Mr. Gladstone. Very early in the session of 1871 a Conservative member, Sir Massey Lopes, asked the House of Commons to affirm the injustice of providing for the increasing burden of local expenditure by the taxation of rich property alone; and the Ministry was defeated by a considerable majority in an attempt to evade the question.[1] Such a division showed that the Government could no longer command the support of its followers. But three other questions of minor importance, which happened to excite unusual interest,

Australia and the Cape of Good Hope. For her case see the *Times*, 4th of August, 1871; *Ann. Reg.*, 1871, Chron., pp. 243–246. The *Times*, in publishing her commander's despatches on the 24th of October, 1871, said of her that she was evidently 'utterly rotten and falling to pieces.' The finding of the court martial on Captain Thrupp (her commander) will be found in the *Times* of the 18th of November. The Government appointed a Commission, under Lord Lawrence, to investigate the condition of the vessel when she sailed, and the cause of the leak which led to her loss. See *Times*, 23rd of November, 1871.

[1] By 241 votes to 195, *Hansard*, vol. cciv. pp. 1037–1110.

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displayed more accurately the growing tension between the Cabinet and the Liberal party. Among earnest men on both sides of the House a feeling was gaining strength that the evils inseparable from the growth of population, and its concentration in large towns, necessitated the preservation of open spaces for the health and the recreation of the people. Mr. Gladstone and his colleagues showed a striking want of sympathy with the feeling. Epping Forest was a large tract of land on the east of London, over which the Crown enjoyed certain immemorial rights; and the House of Commons was strongly of opinion that the Government should exercise those rights to prevent its enclosure, and to consecrate it to the public use. The New Forest was a still larger tract of open country in the south of England, the remnant of the great domain over which the Norman kings had hunted centuries before; and the House desired that the Crown should so deal with this property that the public should have full liberty to ramble over it. The Thames Embankment had been constructed at the expense of London and districts immediately contiguous to London, and the public thought that land which London had reclaimed should be devoted to the use of London. Unhappily, on each of these subjects the Government was disposed to take a narrow view of its duties. Its members thought it desirable to obtain some little profit from the New Forest by enclosing large tracts of land and planting them with larch; they refused to spend public money in preserving Epping Forest for public enjoyment; and they insisted that the Crown should enjoy the waste land which London had reclaimed

from the Thames. On all these questions they were destined to suffer sharp defeat. Mr. Cowper-Temple, by a large majority, carried an Address to the Crown, asking her Majesty to preserve, as an open space, those parts of Epping Forest which had not been enclosed. Mr. Fawcett, two months afterwards, induced the House to accept, without a division, a motion that no felling of ornamental timber, and no fresh enclosures, should be permitted in the New Forest. Mr. Smith, the member for Westminster, whose character and abilities were already giving him a status in the House which he was destined ultimately to lead, lost no opportunity of disputing what the 'Times' called 'the fixed and passionate determination of the Government to assert the rights of the Crown over the land on the Embankment to the last farthing.'[1]

[1] *Times*, 14th of April, 1871. Epping Forest had been a subject of controversy for years. By an Act passed in 1851 the adjoining forest of Hainault had been disafforested, and of its 3000 acres nearly 1900 had been awarded to the Crown. The Commissioners of Woods and Forests had at once taken steps to clear the land of timber and to convert it into a market. It was argued that, even in a pecuniary sense, the policy was a failure, while it, of course, deprived the people of London of the inestimable advantage of rambling over some beautiful forest land (the history of the disafforesting of Hainault will be found in a convenient form in *Hansard*, vol. cli. pp. 608–624). The loss of this privilege naturally directed attention to the encroachments which were being made in the adjacent forest of Epping, and inspired a desire that the Crown should use such rights as it possessed to preserve Epping from enclosure. The rights of the Crown over Epping were, indeed, not great. But Epping was a royal forest, and a forest under the old law was a precinct cut off from the rest of the country, reserved for the hunting by the king, and the king alone, of certain beasts and game, harts and hinds, wolves and boars. (See the Solicitor-General's, Sir J. D. Coleridge, speech in *Hansard*, vol. cxcix. p. 260.) Such a reservation was not worth much when the hart and the hind had shared the fate of the wolf and of the boar, and had disappeared from Epping. It was argued, however, that, shadowy as the claim of the Crown was, its bold assertion would save the forest from enclosure. Unfortunately official England took a different view of the matter. They did not attach

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These reverses shook the Government to its foundations. A Ministry, which had made it its

much importance to the preservation of a right which no future occupant of the Crown was likely to exercise; and they thought the wisest course was to turn the rights into money. Between 1854 and 1863 the Crown rights over 4000 out of the 7000 acres were thus disposed of; and the land on which these rights were so sold were lost to the public (*ibid.*, p. 248). The consequent reduction in the area of the forest naturally excited a good deal of feeling; and in 1863 Mr. Peacocke, the member for Maldon, moved and carried an address to the Crown praying that no further enclosures of waste land should be made within fifteen miles of London. Both the Prime Minister, Lord Palmerston, and his more conspicuous colleagues were in the minority in this division (*ibid.*, vol. clxix. pp. 309–318). In 1864 the House of Commons went a step further, and passed another Act affirming that it was the duty of the Government to provide for the preservation of open spaces in the neighbourhood of the metropolis (*ibid.*, vol. clxxvi. p. 431). And in 1866, after the death of Lord Palmerston, Mr. Cowper introduced a Bill, founded on the report of a Select Committee of 1865, which, notwithstanding the change of Government, happily became law, for preserving the commons round London (*ibid.*, vol. clxxxi. p. 623, and 29 & 30 Vict. c. 122). This Bill did not apply to Epping Forest, which was not a common. But in the year in which it was carried Mr. Gladstone, as Chancellor of the Exchequer, introduced another measure, for the better management of the Crown lands, in which he proposed to transfer the supervision of the Foresters' Rights at Epping from the Commissioners of Woods and Forests to the Office of Works. 'By the management of those rights being placed in the Office of Works,' so Mr. Gladstone expressly stated, 'the Government would be in a condition, without any legal limitation, to make any proposal in the House in respect to them, in the same manner as any other proposal with regard to any public charge in the care of the Office of Works' (*ibid.*, vol. clxxxii. p. 959). This Bill also became law (29 & 30 Vict. c. 62), and persons interested in the preservation of the forest naturally anticipated that a provision, introduced, as Mr. Gladstone said, 'on the express desire of the Crown,' would lead to beneficial consequences. This hope seemed more certain of realisation when the Minister who had introduced the measure succeeded, in 1868, to the first place in the Administration. Mr. Gladstone, however, in forming his Ministry in 1869, and in reorganising it in 1870, had placed at the Exchequer and at the Office of Works two men singularly incapable of being influenced by the sentimental desire to preserve a great open space. One of them, Mr. Lowe, was almost the ablest member of Mr. Gladstone's Cabinet. But, in his passionate desire to promote economy, he never paid the slightest regard to the susceptibilities or wishes of his followers. The other of these two men, Mr. Ayrton, was not likely to modify the views of his colleagues. With him, a public officer had nothing to do with the amenities of life; and he was much more anxious

special function to reprove and restrain the abuses committed by Irish landlords, was introducing the

to reduce the cost of administering his office than to promote the æsthetic advantages of the metropolis. Mr. Lowe had the opportunity of explaining his views in August 1869, after he had been a little more than seven months in office. He told a large and important deputation that he would do nothing to defend the Crown rights, ignoring, as was observed afterwards in Parliament, the recommendations of two Select Committees, a Royal Commission, and the pledges of the Prime Minister himself (see Mr. Fawcett's account of this deputation, *Hansard*, vol. cxcix. p. 251, and cf. Leslie Stephen, *Life of Fawcett*, p. 313). Something could, no doubt, be said for Mr. Lowe's attitude. It was not certain that litigation would succeed; it was certain that it would, in any case, be protracted and costly; and a Chancellor of the Exchequer was bound to consider whether, in such circumstances, he was justified in expending public money on a law-suit, or whether the cost should not be borne by the metropolis, and not by the country. But, on the other hand, it could fairly be replied that the Crown might be expected to assert such rights as it possessed in the interests of the public; and that a Government, which had made it its special mission to constrain Irish landlords, should set an example in the management of its own property. Mr. Lowe's unsympathetic attitude, at any rate, placed the Government in a position of great embarrassment. At the commencement of the session of 1870 Mr. Fawcett moved an address to the Queen praying that she would be graciously pleased to defend the rights of the Crown over the forest, so that it might be preserved as an open space. Mr. Gladstone did not venture to allow his unpopular lieutenant to represent the Ministry in the debate; and he only avoided defeat by a judicious amendment asking her Majesty to take such measures as in her judgment she might deem most expedient for the purpose (*Hansard*, vol. cxcix. pp. 246–266).

It would have been well for the Government if, at this stage, it had frankly accepted the decision of the House, and taken effectual steps for preserving the forest from further spoliation. Instead of doing so it introduced a measure which would have disafforested the forest, and divided it among the Lords of the Manor, the copyholders, and the public. The House was asking that the forest should be preserved as a whole. The Ministry was replying by merely safeguarding 600 out of the 3400 acres which it still comprised. (For the description of the Bill see *ibid.*, vol. ccv. p. 1854.) The Bill, however, failed to comply with the standing order of the House, and in the following year Mr. Cowper-Temple — for, in the interval, Mr. Cowper, as Lord Palmerston's heir, had taken the additional name of Temple—moved a fresh resolution, declaring that measures should be adopted in accordance with the terms of the address of the previous year, for preserving the forest to the public. This motion, notwithstanding an unsympathetic speech from Mr. Lowe, was carried by a majority of more than two to one (*ibid.* pp. 1852-1871), and the Ministers

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worst vices of landlordism into the management of the estates of the Crown. A Ministry, whose special

found it necessary to attend seriously to a decision which they had so long evaded. A Bill was introduced appointing Commissioners to prepare and settle a scheme for disafforesting the forest and for preserving and managing the waste lands, which were defined to include all lands on which the Crown was entitled to exercise forester rights. The local authorities were further authorised to purchase these waste lands out of the product of the local rates. This measure (34 & 35 Vict. c. 93, and see especially secs. 12, 16, and 17) practically terminated the long Parliamentary struggle. At this stage it was happily discovered that the City of London had certain rights in the forest; and the matter was taken up with all the vigour of that powerful body. The City solicitor took up the case heartily. A Bill was filed in Chancery alleging a right in all owners and occupiers of land within the bounds of the forest to turn out their cattle over all the wastes. Every lord of a manor was made a party to the suit, and every enclosure made within twenty years was challenged. The result of this was the judgment of Sir George Jessel (Master of the Rolls) in 1874. All the enclosures were declared to be illegal; and thus over 5000 acres became permanently part of our national playgrounds. (Leslie Stephen, *Life of Fawcett*, pp. 320-321.) The victory had been won; but the victors owed nothing to the Government. On the contrary, throughout the protracted contest, the Ministers had uniformly adopted an unpopular and unsympathetic attitude. They seemed so anxious to defend the strict rights of the Crown, that they had no time left for considering the requirements of the teeming population of London.

The same conclusion could, unfortunately, be drawn from the manner in which they approached the question raised by the embankment of the Thames. At the time when the embankment of the Thames was originally proposed, no one foresaw the extent of the great improvement which was to be effected by the scheme. And no authority existed in London with power to watch over and guard the interests of the metropolis. In these circumstances an arrangement was made under which the lands to be reclaimed from the river were divided into two portions. Foreshores so reclaimed opposite the land owned by the Crown were vested in the Crown, and were afterwards called reserved land. The residue of the land reclaimed was vested in the Conservators of the Thames, and was called Conservancy land (36 & 37 Vict. cap. 40 Preamble).

In 1862 the Metropolitan Board of Works found it necessary to acquire a portion of the Conservancy and five and a half acres of the reserved land for the purpose of forming the embankment and the roadway upon it; the value of the land so acquired was ascertained by arbitration; but it was finally decided that, in consideration of the greatly increased value which the construction of the embankment gave to the land still remaining in the possession of the Crown —the residuary reserved land, as it was afterwards called—no pecuniary compensation should be paid for it to the Crown (*ibid.*).

business it ought to have been to conduct the government of the people for the people, was displaying an autocratic indifference to the wishes of the people and the views of their representatives. Mr. Lowe especially, as Chancellor of the Exchequer, was making himself especially obnoxious by a cynical refusal to yield to the wishes of his supporters.

The completion of the embankment drew public attention to the magnificent estate which the London ratepayers had reclaimed from the muddy foreshore of the river; and it was naturally desired that land which owed its very being to the expenditure of London should be reserved for all time for the enjoyment of London. There was especially a widespread feeling that the land lying between Westminster on one side, and what is now Northumberland Avenue on the other, should be converted into a public garden. The Commissioners of Woods and Forests, however, in whom the land was vested, thought it their duty to insist that land vested in the Crown should remain at the disposal of the Crown, for the profit of the Crown; and the Government, playing into the Commissioners' hands, decided on acquiring it, and appropriating it as a site for public offices. The storm which this proposal excited, in the first instance, failed to move them from their purpose. But their own weakness in 1871, and the determined attitude of their opponents, forced them into a new compromise. At that time a new project was being brought forward for the construction of a direct road from Charing Cross to the Embankment through the grounds of what was then known as Northumberland House. For the purpose of making this new roadway the Metropolitan Board of Works decided on purchasing the Duke of Northumberland's property; and in acquiring it they came into possession of a large space of land (some 1060 square yards) which was not required for the purpose of the new road. It was finally decided that the Metropolitan Board of Works should give that land and a sum of 3270*l.* to the Commissioners of Woods and Forests in exchange for the land on the Embankment which it was proposed to convert into a public garden. And, by this bargain, which was regarded as none too liberal, the metropolis secured for ever the use of the land between Westminster and Charing Cross which lies in front of the stately buildings known as Whitehall Court. I have not thought it necessary to add in detail the history of the struggle over the New Forest, which was only commencing in 1871. A short but sufficient account of it will be found in Leslie Stephen's *Life of Fawcett*, p. 322 *seq.* For fuller information on the whole subject of this note see Mr. Shaw Lefevre's chapter on Commons in *English and Irish Land Questions*, 1881.

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Mr Lowe at the Exchequer.

Mr. Lowe, it must be recollected, was not a favourite among the followers of the Government. His speeches in 1866 had been inspired by a distrust of the people and a dislike of the growing influence of democracy. His conduct at the Exchequer, indeed, had partially redeemed his character as a Liberal leader. His great Budget of 1869 had both created a surplus and had disposed of it in accordance with the best traditions of Liberal finance. His Budget in 1870 had been attended with the popularity which always results from an elastic revenue and large remissions of taxation. It was thoroughly understood that the circumstances of 1871 did not supply him with a similar opportunity. The additional expenditure which the war on the Continent had made necessary, and the expense which the Ministry itself was incurring in deciding to abolish purchase in the army, were swelling the estimates; while the Bill which Mr. Goschen had introduced for the improvement of local taxation incidentally proposed to transfer the proceeds of the house-tax from the Exchequer to the local authorities, and thus to diminish the resources at the Chancellor of the Exchequer's disposal. No man, therefore, could hope that Mr. Lowe, in such circumstances as these, would be able to repeat the success which he had achieved in 1869 and 1870. Nevertheless the brilliancy of his achievement in these two years suggested a hope that he might find some expedient for avoiding any large additions to taxation. The tale which Mr. Lowe had to tell in opening his Budget dissipated this hope. With an expenditure of 72,308,000*l.*, he had a revenue of

69,595,000*l.*; a deficit, in other words, of nearly two millions and three-quarters.[1]

To provide for this great deficit, which Mr. Lowe rightly concluded should be met out of the taxation of the year, the Chancellor of the Exchequer proposed to rearrange the probate duty, to raise the succession duties, in the case of direct descent from 1 to 2 per cent., and on the descendants of brothers and sisters from 3 to 3½ per cent.; to put a new tax on matches, and to raise the income-tax from 1*l.* 13*s.* 4*d.* to 2*l.* 4*s.* per cent. He estimated that the alteration in the probate and succession duties would produce 1,020,000*l.* (of which, however, only 300,000*l.* would be received in the present year), that the new duty on matches would yield 550,000*l.*, and that the increased yield from the higher income-tax would amount to 1,950,000*l.* The three new taxes, therefore, could in the aggregate be relied on to bring in a sum of 2,800,000*l.*, or rather more than the whole deficit for which Mr. Lowe had to provide.

The Budget of 1871.

The scheme was open to one obvious criticism. There was every reason to believe that the deficit

[1] The Budget figures were as follows:—

Revenue.		*Expenditure.*	
Customs	£20,100,000	Debt	£26,910,000
Excise	22,420,000	Consol. Fund	1,820,000
Stamps	8,750,000	Army	16,452,000
Queen's Taxes	2,330,000	Navy	9,756,000
Income Tax	6,100,000	Civil Service	10,726,000
Post Office	4,670,000	Revenue Department	5,076,000
Telegraphs	750,000	Packet Service	1,148,000
Crown Lands	375,000	Telegraphs	420,000
Miscellaneous	4,100,000		
	£69,595,000		£72,308,000

The estimate of Revenue included the House Tax. The estimated expenditure provided £600,000 as a first instalment of the cost of abolishing purchase. *Hansard*, vol. ccv. pp. 1400–1407.

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would be temporary; and the first tax which Mr. Lowe imposed for the purpose was calculated to yield only 300,000*l.* in the year in which it was wanted, and no less than 1,020,000*l.* in the future years when there was reason to hope that it would not be required. He was adding to the permanent taxation of the country a sum far in excess of the amount required to cover a temporary deficit. And this policy seemed the more unnecessary because, in estimating his probable revenue for the year, he had assumed that almost all the great branches of which it was composed would fail to yield the amount which they had produced in the previous twelve months.[1] He was not merely, therefore, providing more money than was likely to be required in years to come; he was also under-estimating the resources on which he might fairly rely. The second criticism which could be applied to his Budget was that he was introducing a new method into the collection of an unpopular tax. Hitherto the income-tax had always been fixed at so many pence on each pound of income. Mr. Lowe was substituting for it a percentage on the income. The new method did not commend itself to an assembly which, whether it gives a majority to the Liberal or to the Conservative party, dislikes innovations, and especially innovations in finance. It was further objected to the Budget that of the 2,800,000*l.* which he required, Mr. Lowe was raising no less than 2,250,000*l.* by direct taxation;[2] while earnest Liberals

Objections to Mr. Lowe's proposals.

[1] It was said in the House of Commons that there was not 'a single individual who did not concur in the opinion that the Chancellor of the Exchequer had fixed his yield of revenue too low.' *Hansard*, vol. ccvi. p. 158.

[2] See the *Times* criticism, 2nd April, 1871.

denounced the Government for 'the most extravagant scale of expenditure ever proposed in that House.'[1] The last of these criticisms received formal expression in a motion proposed by the Liberal member for Brighton, Mr. White, and seconded by the Liberal member for Warrington, Mr. Rylands. This resolution, which was supported in debate by a few earnest Liberals, and in the division lobby by the entire Conservative party, showed the Ministers the danger which was threatening them; for, in a House of 500 members, their majority fell to only twenty-seven.[2]

The proposed Match Tax.

Significant as this debate and division proved, the House was only partly thinking of the issue directly raised by Mr. White. For the opposition to the Budget was already concentrating on the novel proposal which Mr. Lowe had made for the taxation of matches. On the morning of the day on which Mr. White's motion was read, the 'Times' published a letter from Messrs. Bryant & May, the great manufacturers of matches, painting in sombre colours the effects on trade and industry of the new tax.[3] On the afternoon a great procession of matchmakers, including many women and children, set out from the East End of London to petition Parliament against the tax. The procession was stopped by the Government, but the mere arrest of the procession did not detract from its effect. It was widely felt that, for the sake of some half-million a year, it was undesirable to interfere with the progress of an industry on which some of the very poorest members of the working classes depended

[1] *Hansard*, vol. ccv. p. 1429.
[2] 257 votes to 230. *Hansard*, vol. ccv. p. 1672.
[3] *Times*, 24th of April, 1871.

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for their very existence. Mr. Lowe, in proposing the tax, had suggested as a motto for the new labels to be attached to every match-box the Latin words *Ex luce lucellum*—a little profit out of light. Some wit founded on the motto the epigram—

> Ex luce lucellum, we all of us know,
> But if Lucy can't sell 'em, what then, Mr. Lowe? [1]

The tax abandoned.

Even on the 24th of April, in winding up the debate on Mr. White's motion, Mr. Gladstone had thought it politic to hint that the tax on matches might possibly be open to reconsideration. On the following evening, stimulated perhaps by the recollection of the division, and by a notice of Mr. Disraeli for a motion demanding the reconsideration of the whole scheme, he came down to the House and announced that the new tax would not be proceeded with.[2] Mr. Disraeli naturally inquired how the Government proposed to make up the deficiency in the ways and means which would thus be created, and Mr. Lowe at once offered to supply the information on the following Thursday. When that day came the Government wisely decided that the policy which it was then determined to adopt should be explained on the authority of the Prime Minister himself; and Mr. Gladstone announced that the Government was not only prepared to abandon the tax on matches,

Budget reconstructed.

but was also ready to give up the alteration in the death duties, to let the question of computing the income-tax by a percentage 'stand over for an

[1] Mr. Lowe, on leaving the House after his speech on the Budget, was congratulated by a friend, who sat on the opposite Benches, on his motto. 'Ah!' he laughingly replied, 'there were not three men in the House who could construe it.'

[2] *Hansard*, vol. ccv. p. 1685.

impartial expression of public opinion,' and to raise funds to meet the deficit by what Mr. Disraeli, alluding to a famous phrase, subsequently called the 'sweet simplicity' of an additional 2*d.* to the income-tax.[1] In short, Mr. Gladstone decided on providing for the entire deficit by tapping a 'source which is of all sources the most available for any purposes of a more or less temporary character, and which is wisely recommended by the circumstance that it is easily borne while it lasts and easily removed when the time comes for the Government to make the surrender.'

So complete a reconstruction of a Budget had not been attempted in England for nearly a quarter of a century; and it would hardly have been attempted in 1848 if the Ministry had been able to rely on the allegiance of its supporters.[2] The rapid change of front which Mr. Gladstone had found necessary betrayed a growing consciousness that his authority both in Parliament and in the country was on the wane. The decline of his power was destined to be brought home to him within sixty hours. On the night which followed the recasting of the Budget the Ministry suffered a sharp defeat—to which allusion has already been made—on Mr. Cowper-Temple's motion for the preservation of Epping Forest. On the same day a casual election at Durham resulted in the unexpected defeat of the Liberal candidate.[3] Opinion

Decline in popularity of Government.

[1] *Hansard*, vol. ccv. p. 1780; cf. p. 1791.

[2] How strong this feeling was may perhaps be inferred from the language of the *Times* which, in its Review of the Session, spoke of a Budget so ridiculous that it was at once abandoned for a crude and indefensible makeshift. *Times*, 21st of August, 1871.

[3] The figures were: Wharton (the present Mr. J. L. Wharton) 814, Thompson 776. *Times*, 29th of April, 1871.

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in Parliament, opinion in the provinces, seemed equally pronouncing against the Ministers; and the Conservative party, encouraged by the accumulating evidence of their unpopularity, brought forward a motion directly objecting to the addition of 2*d.* to the income-tax.[1] Mr. Gladstone, however, had the courage to declare that the fate of the Government depended on the fate of the Budget; and the House, unprepared to part with a Ministry which it was ready enough to harass, but which it was not yet ready to destroy, rejected the Conservative amendment by a large majority.[2]

The addition of 2*d.* to the income-tax.

The defeat of the Conservative party did not terminate the contest. Mr. Disraeli[3] declared, in winding up the debate, that on every occasion, at every stage, and by every means, 'he would oppose a proposition most unsound and impolitic';[4] and a few days afterwards he supported a motion proposed by one Liberal member, Mr. McCullagh Torrens, and seconded by another, Mr. White, for fixing the income-tax at 5*d.* instead of 6*d.* The House refused to alter the decision which it had pronounced only a day or two before, or to force the Ministry to recast a second time a Budget which no one heartily liked. But the supporters of the Government in the

[1] *Hansard*, vol. ccv. p. 1937.

[2] By 335 votes to 250.

[3] Mr. Disraeli, at the opening of his speech, repeated an argument which he had used with effect some years before: 'The fact that we can by a single tax, without distressing the community, in a great exigency produce 20,000,000*l.* or 25,000,000*l.* sterling—a sum which the most powerful states, were they engaged in war, would have to try for at the different exchanges and money markets of Europe—places this country at an immense advantage, gives us a position of power difficult to describe, and a line of defence scarcely less important than our fleets and armies.' *Hansard*, vol. ccv. p. 2025.

[4] *Ibid.*, vol. ccv. p. 1034.

lobby fell from 335 to 294: the Conservative minority remaining almost stationary at 248.[1]

Unsatisfactory as the division was from a Liberal standpoint, it ensured the success of the amended Budget. Having obtained the supplies which they required, the Government, perhaps, would have exercised a wise discretion if they had hastily wound up the business of the session and advised the Queen to prorogue a Parliament which was already becoming restive. Ministers, however, could not yet bring themselves to abandon the greater part of the spacious programme with which they had opened the session. The Army Bill had been reduced to a measure for abolishing purchase; the proposals for the reform of local government and taxation had been withdrawn; the Licensing Bill had been abandoned. But one measure of first-rate importance still stood on the notice paper. Many Liberals had long advocated the adoption of the ballot; many Liberals who had resisted it had been converted to the ballot by the events of the election of 1868, and by the necessity of giving an enlarged and dependent electorate the protection of secret voting. A really earnest effort to carry this reform might, it was hoped, conciliate many earnest Liberals whose support had been alienated by the education policy of Mr. Forster. If the attempt failed, it

The Ballot Bill.

[1] This debate is remarkable from the fact that it was the last occasion, so far as I know, in which Greek was quoted in the House of Commons. Mr. Cross (now Lord Cross) wound up a speech with this quotation: Νήπιοι, οὐδὲ ἴασιν ὅσῳ πλέον ἥμισυ παντός. *Hansard*, vol. cvi. p. 209. According to the *Times* he added the free translation: 'Fools, ye do not know how far better one penny is than twopence.' Mr. Bernal Osborne, in the same debate, said the professional man will say to the Chancellor of the Exchequer: 'I give thee sixpence! I'll see thee —— first.' *Ibid.*, p. 179.

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would draw fresh attention to the differences which separated the Conservative party and the House of Lords from the masses of the nation. The Ministers, therefore, decided, so soon as the protracted debates on the Army Bill were over, to introduce the measure. It was soon obvious, however, that they could only hope to carry the Bill through all its stages by an almost indefinite prolongation of the session, and it was equally obvious that the Bill could reach the House of Lords only at a date which would give the Peers an opportunity for saying that they had no leisure to consider it. It was naturally argued that to waste time over a legislative proposal which could by no possibility be carried, would be useless. The Ministry, however, chose to persevere. They declared that they would continue to persevere so long as they were supported by a majority of the House of Commons, and that they would throw the responsibility of rejecting the Bill on the majority of the House of Lords.[1] They had their way. The Bill, shorn of the clauses intended to reduce the expenses of elections to candidates by charging them on the rates,[2] reached the Lords in the middle of August. It was thrown out on the second reading by the Peers, and thus ended, after unparalleled confusion,[3] an unusually protracted session.

Rejected by the Lords.

In this confusion history was repeating itself. Just as Lord Grey's Ministry in the first reformed Parliament fell to pieces in 1834, so after the second

[1] See the *Times* of the 11th and 17th July, 1871.

[2] Leslie Stephen, *Life of Fawcett*, p. 276.

[3] 'Confusion unparalleled to many of the present generation.' *Times*, 28th of July, 1871. For the introduction of the Ballot Bill, *Hansard*, vol. cciv. p. 529; for its rejection, *ibid.*, vol. ccviii. p. 1254; cf. *Life of Lord Shaftesbury*, vol. iii. p. 294, and *Life of Forster*, p. 294.

Reform Act Mr. Gladstone's Ministry lost all real control in the summer of 1871. In both cases the catastrophe was partly due to the heroic character of the legislation which the Government produced. If Ministers failed to satisfy the expectations of their extreme followers, they alarmed and irritated old-fashioned Liberals. As Mr. Goschen said afterwards, 'They had spent their majority like gentlemen.' And the difficulties which both Ministries encountered were aggravated by the condition of Ireland. The rock on which the Grey Ministry finally broke up was connected with the Irish Church. The failure of the Church Act of 1869, and the Land Act of 1870, to conciliate Ireland; the growing discontent of the Irish which led to the introduction of a fresh Coercion Bill; the demand which was gradually gaining strength for some measure of Home Rule in Ireland, and the dread which was felt in England of any scheme infringing the principles of the Union, aggravated the difficulties with which Mr. Gladstone and his colleagues were surrounded.

Decline of the Ministry.

Irish difficulties.

Casual elections had already indicated that the tide of opinion was setting against the Ministry. Immediately after the session had ended the death of Mr. Buxton, a Liberal, left vacant a seat for East Surrey. It was filled up by the election of a Conservative by a large majority;[1] and the 'Times,' in commenting on the result, declared that 'the mistakes of the session had told with the electors to a degree which the transparent artifices employed to cover them have failed to mitigate.' In the following month another casual vacancy in

Adverse bye-elections.

[1] The figures were, Watney (C.) 3,889; Leveson Gower (L.) 2,770. See the *Times*, 25th of August, 1871.

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Ireland led to a still more striking result. The county of Limerick returned Mr. Butt without opposition;[1] and Mr. Butt, an Irish barrister of eloquence, was already widely known as the advocate of Irish self-government.

Mr. Butt's election supplied an unfortunate commentary on the policy of a Government specially formed to do justice to Ireland. It was evident that, whatever else had happened, the legislation of 1869 and 1870 had not brought Ireland peace. The chronic disturbances which retard the progress of that unhappy island had, moreover, just received a new illustration. In August, while Parliament was still in session, the Prince of Wales, accompanied by his sister Princess Louise—who enjoyed the popularity attaching to a young bride[2]—paid a short visit to Ireland. The visit was in most respects a success; but, unhappily, when it had almost ended, it was marred by a serious riot in Phœnix Park, arising from the determination of the people to hold, and of the authorities to repress, a meeting for demanding the release of the Fenian prisoners.[3] The Irish people were not unnaturally irritated at the bloodshed which attended the suppression of the meeting, and an Irish jury, before many weeks were over, took occasion to mark its disapproval of the British Government in an unusual manner. A man named Kelly was charged with the wilful murder of Head Constable Talbot, an officer who had been exceptionally active in obtaining evidence against the Fenians. Kelly was defended by Mr. Butt. There was not much

Visit of Prince of Wales to Ireland.

Trial and acquittal of Kelly.

[1] The *Times*, 21st of September.

[2] The Princess had been married to Lord Lorne (now the Duke of Argyll) on the 21st of March, 1871. *Ann. Reg.*, 1871, Chron., p. 32.

[3] *Ibid.*, p. 80.

doubt as to the prisoner's guilt. His counsel, indeed, endeavoured to show that Talbot's death was not attributable to the wound, but to the unskilful operation of the surgeon who attended the wounded man. But the jury returned a verdict of 'Not guilty.' The reasons for the verdict were not difficult to discover. While the trial was in progress, indeed, an Irish newspaper—the 'Irishman'—impressed on its readers what the Lord Chief Justice of Ireland called the 'hideous, impious, and blasphemous' lesson that the man 'who shot an informer was not alone no criminal, but a hero worthy of honour.'[1] It was a melancholy reflection that, after the legislation of 1869-1870, Irish juries and Irish journalists should be equally blinded to the right by their sense of what they believed to be Irish wrong.

The trial of Kelly did not take place till the closing weeks of 1871, but the growing disaffection of the Irish people was visible long before the trial. In 1870, indeed, a Home Government Association was formed in Ireland, 'for the purpose of obtaining the right of self-government by means of a National Parliament'; and in 1871 four casual elections—for Meath, Westmeath, Galway, and Limerick—resulted in the return of four Home Rulers.[2] The election of Mr. Butt for Limerick in September, therefore, only emphasised in a striking way the conclusions to which other by-elections had already pointed, and the Ministry which had done so much for Ireland found itself face to face with a more

Formation of the Home Government Association.

[1] For the case, *Ann. Reg.*, 1871, Hist., p. 105, and Chron., pp. 235, 240.

[2] See Mr. Barry O'Brien's *Life of Parnell*, vol. i. pp. 65–67.

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serious demand than the disestablishment of the Irish Church or the reform of the Irish Land Laws. The new movement was so formidable that Mr. Gladstone thought some notice of it necessary. The people of Aberdeen—a city which he always regarded with peculiar respect for the mental capacity of its inhabitants [1]—conferred on him the freedom of their city, and Mr. Gladstone, speaking to a large meeting, took occasion to deal with Home Rule. 'I am not quite certain,' he said, 'what is meant in Ireland by the cry of Home Rule. I am glad to know from the mouths of those that raised that cry what it does not mean; they have told us emphatically, by their principal organs, that it does not mean the breaking up into fragments of the United Kingdom. Well, that after all is a most important matter. This United Kingdom, which we have endeavoured to make a United Kingdom in heart as well as in law, we trust will remain a United Kingdom. . . . Can any sensible man—can any rational man—suppose that, at this time of day, in this condition of the world, we are going to disintegrate the great capital institutions of this country for the purpose of making ourselves ridiculous in the sight of all mankind, and crippling any power we possess for bestowing benefits through legislation on the country to which we belong?' [2]

Mr. Gladstone on Home Rule.

The speech undoubtedly strengthened Mr. Gladstone's position. The knowledge that he had

[1] Mr. Gladstone used to tell a story of a gentleman who, in some southern city, had entered a hatter's to buy a hat. The assistant found nothing large enough for the customer, till the shopkeeper, noticing the difficulty, said, 'Bring an Aberdeen hat.'

[2] The speech will be found reported in the *Times*, 2nd of September, 1871. But essential portions of it are reproduced in the *Ann. Reg.*, 1871, Hist., p. 106.

strenuously set himself against Home Rule satisfied a great many people, who feared that he might be meditating some fresh concession to the Irish nation. But a mere repudiation of Home Rule, however emphatically it might be made, was not enough to restore confidence in a Ministry which had lost control of public business. Mr. Gladstone braced himself for a supreme effort. Nearly three years had passed since the people of Greenwich had softened the recollection of his defeat in Lancashire by voluntarily choosing him as their representative in Parliament; and in the interval Greenwich had suffered from the action of his colleagues in closing a neighbouring dockyard, and had brooded over his own neglect. It had even called on him at the beginning of the year to resign a seat in which he had betrayed the interests of his constituents. At the end of October 1871 Mr. Gladstone decided on regaining the confidence of the country by a bold appeal to the electors of Greenwich; and for two continuous hours, on a bleak October afternoon, he addressed a crowd of some 20,000 people who had come to hear him. The audience, in the first instance, was by no means friendly to him. There was a moment, when he faced the crowd, when it seemed doubtful whether those who had come to hear, or those who had come to shout the orator down, would get the best of the struggle. But when once a British feeling for fair play obtained for Mr. Gladstone a hearing, his matchless eloquence, his stately presence, his resounding voice, held the great audience. Read by the cold light which criticism sheds on such compositions, the speech is one in which it is possible to detect many defects.

Mr. Gladstone's speech at Greenwich.

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Heard in the cold grey of that October afternoon, it swayed the people as they had never been swayed before. The enthusiasm, excited in a local gathering, continued to communicate itself to the reports which were widely read from John o' Groat's to Land's End. Mr. Gladstone had apparently restored the wavering fortunes of his Ministry in regaining the confidence of the Greenwich electors.

Yet only four days after the publication of this great speech an announcement was made which was destined again to shake confidence in the discretion of that Minister. In the comparatively abortive session of 1871 two Acts had been passed almost in silence. One, 'to make further provision for the despatch of business by the Privy Council'; the other, 'to invest in her Majesty the Rectory of Ewelme.' By the first of these Acts the Crown was empowered to appoint four persons to serve on the Judicial Committee who were at the date of their appointment, or who had been, Judges of one of the Superior Courts, or Chief Justice in Bengal, Madras, or Bombay.[1] By the second of these the Rectory of Ewelme, which since the days of James I. had been attached to the Regius Professorship of Divinity in the University of Oxford, was detached from the Professorship and vested in the Crown, with power to appoint to it 'any person being a member of Convocation of the said university.'[2] To a plain man the meaning of these two statutes was clear. The Crown was entitled to appoint one of the judges of the Superior Courts to the Privy

Appointments transferred to Crown.

[1] 34 & 35 Vict. c. 91, sec. 1.

[2] *Ibid.*, cap. 23, sec. 1. The rectory of Ewelme became vacant in 1871, through the appointment of Dr. Payne Smith, the Regius Professor of Divinity, to be Dean of Canterbury in succession to Dean Alford.

Council; and an Oxford graduate, with a Master's degree, to the Rectory of Ewelme.

On the 4th of November, however, five days after the Greenwich speech, the public was startled to hear that Sir Robert Collier, the Attorney-General, was about to be formally made a judge of one of the Superior Courts in order that he might straightway be transferred to the Privy Council. No human being doubted that Sir Robert had every qualification for the post except the one which the Act of Parliament prescribed. But as the Act had declared that no one but a judge of the High Court should be eligible for it, every one thought that it was a piece of sharp practice,[1] and an evasion of the law, to make a man a judge with the purpose of qualifying him for the office.[2]

Promotion of Sir Robert Collier.

This view of the case was strengthened by the circumstance that Sir Alexander Cockburn, the Chief Justice of England, thought it his duty to remonstrate with Mr. Gladstone on the subject of the appointment. Some people, indeed, considered that there was not much use in the Chief Justice lodging a protest against an act which had already been consummated, and that it was both inconvenient and unusual for a man in Sir Alexander's exalted position to lodge a public protest against the action of a Minister. But whatever judgment might be formed on the protest and its publication, most men were agreed that the thing itself was objectionable. For it is the business of a Prime Minister to observe

Remonstrance of the Chief Justice.

[1] The phrase is from the *Times*, 4th of November, 1871.

[2] It ought, perhaps, in justice to Mr. Gladstone, to be added that three judges declined the place before it was conferred on Sir R. Collier; and that Mr. Gladstone interposed to prevent the office being hawked about. *Hansard*, vol. ccxi. p. 398.

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the law; and that Minister sets an ill example to his fellow-countrymen who exposes himself to the imputation of circumventing it.[1]

Appointment of Mr. Harvey to Rectory of Ewelme.

The bad impression which was created by the Collier appointment was increased by Mr. Gladstone's arrangement for filling up the Ewelme Rectory. Instead of selecting a graduate of Oxford for the living, he chose for it Mr. Harvey, a graduate of Cambridge. Mr. Harvey, like Sir Robert Collier, had every qualification for the post except that which had been fixed by Parliament itself. He was a blameless clergyman and a learned divine. Kindly motives, moreover, influenced Mr. Gladstone in his selection of him. For Mr. Harvey was suffering from the comparatively rigorous climate of the Eastern counties, and Mr. Gladstone was anxious to place him in a parish which might be more suitable to him. But all these considerations did not affect the vital point that Parliament had laid down that the future rector of Ewelme should be a member of the Convocation of Oxford University, and that Mr. Harvey was not a member of the Convocation. The living, in fact, was kept vacant for months in order that Mr. Harvey might obtain the membership which was a condition of his appointment. In every particular, therefore, the Ewelme appointment added weight and emphasis to the case against the appointment of Sir Robert Collier. In both instances Mr. Gladstone had disobeyed the spirit, while keeping himself within the letter of the law. The subtlety of his intellect enabled him to reconcile himself to a course which a plainer man

[1] Sir Alexander Cockburn's protest was dated 10th of November, 1871. It was published with the consequential correspondence on the 5th of December. See the *Times*, 5th of December, 1871.

would have condemned as disingenuous. To the very end he seemed incapable of appreciating the case against him, and declared that, in selecting Mr. Harvey for Ewelme he had pursued a course deserving, not of censure, but of approval.[1]

Attacks on these appointments.

It was specially unfortunate that this course should have been followed by the Minister who, in abolishing purchase by proclamation, had shown a disposition to pass over the views of a branch of the Legislature. An impression was created that Mr. Gladstone was prepared to deliberately disregard the letter of a statute, or that his reasoning was so subtle that he could reconcile himself to a method of interpreting statutes which did not commend itself to men of ordinary understanding. In the debates which subsequently took place on the appointment, a Conservative member told a story of a country gentleman whose attention was being directed to some noisy clamour, and who, on looking out of the window, 'saw one of the kitchenmaids being put on a horse, and so carried round the yard. When he went down, he asked what was the matter? and the groom said, Sir, it is only that we're going to take the horse to the fair, and we want to say that he has carried a lady.'[2] The homely illustration was felt to represent only too accurately the methods by which Mr. Harvey and Sir R. Collier had qualified for the positions to which they had been appointed, and, though Parliament refused to censure the Government for what they had done, the general feeling on both sides of the House was that conduct of this kind should not be repeated.[3]

[1] *Hansard*, vol. ccix. p. 742.
[2] *Ibid.*, p. 1719.
[3] Mr. (afterwards Sir John) Mowbray drew attention to the

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Indirectly, moreover, Sir R. Collier's appointment afforded a fresh indication of the waning popularity of the Government. For Sir Robert had represented Plymouth, and the electors of Plymouth chose as his successor a Conservative candidate.[1] Only three years before, Conservative candidates throughout the length and breadth of the land had been submerged by a rising flood of Liberalism; and now the waters had receded, and Conservatives were in favour in every constituency.

Liberal defeat at Plymouth.

Reaction and its causes.

The reaction was due to fear. The timid Conservatism of the English people was shrinking from a Ministry which was attacking property. No institution seemed safe from the unholy hands which had already disestablished a Church, and which was threatening to interfere with the village public-house. Even monarchy itself, if it received the allegiance of the Cabinet, did not always obtain respect from the Cabinet's supporters. In February of this very year three members of Parliament had ventured to oppose the dowry which it was proposed to grant, on her marriage, to one of the Queen's daughters.[2] In the autumn one of the three, in a series of speeches at Newcastle and Leeds, denounced the cost of Royalty,

Ewelme case, but no division was taken on it. *Ibid.*, p. 1673. Lord Stanhope, in the House of Lords, and Mr. Cross, in the House of Commons, moved that Sir R. Collier's appointment was at variance with the spirit of the statute, and of evil example in the exercise of judicial patronage. In both Houses the motion was met by an amendment that the House found no just cause for passing Parliamentary censure on the conduct of the Government. The amendment was carried in the Lords by a majority of one vote, 88 to 87; in the Commons by a majority of 27, 268 votes to 241. *Ibid.*, pp. 376, 388, 460, 658, 677.

[1] The poll was: Bates 1,753; Rooke 1,511. *Times*, 23rd of November, 1871.

[2] The three were Sir Charles Dilke, Mr. Peter Taylor, and Mr. Fawcett. *Hansard*, vol. ccix., and see *Life of Fawcett*, p. 288.

and proclaimed himself a republican. Sir Charles Dilke's 'shameful ebullition,' as it was called at the time, did not meet with any encouraging response from the audiences whom he selected for his purpose. On the contrary, the people who collected to hear him showed their dislike of his sentiments; and the orator, on more than one occasion, had to receive the protection of authority from the democracy to whom he appealed.[1]

There was, perhaps, some ground for these unusual attacks upon royalty. The reign of Queen Victoria will be recollected in history, not merely for the material progress which it witnessed, but for the character and conduct of the sovereign who occupied the throne. Yet, if the life of the Queen be impartially analysed, the historian will be disposed to regret the middle years of her reign almost as keenly as he approves the beginning and the close of it. During the ten years which followed the death of the Prince Consort in December 1861, the Queen lived in a seclusion which sorely tried the allegiance of her loyal subjects. As was said at the time, 'The prolonged eclipse of the splendour of royalty perceptibly diminished the popularity of the Crown.'[2]

The retirement of the Queen.

[1] Sir C. Dilke's speeches will be found reported in the *Times* of the autumn. See especially the numbers of the 9th and 24th of November. In the first of these the phrase 'shameful ebullition' occurs. In the following session Sir C. Dilke brought forward a motion in the House of Commons on the Civil List. *Hansard*, vol. ccx. p. 253. The debate led to a remarkable defence of monarchy by Mr. Gladstone (*ibid.*, p. 291), and subsequently to a scene of violence which had not been witnessed in the House of Commons since the days of Mr. O'Connell. In the midst of the confusion the House was cleared of strangers. Sir C. Dilke's motion was defeated by 276 votes to 2, or by a majority of 274. *Ibid.*, p. 317. The *Times* declared that the House of Commons was in a mood of almost uproarious loyalty. *Times*, 20th of March, 1872.

[2] *Times*, 21st of August, 1871.

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If the inner history of her reign is ever fully written, it will, perhaps, be found that adequate reasons existed for a retirement which every one deplored. Her grief at the Prince Consort's death produced consequences, both on her body and perhaps on her mind, which accounted for her withdrawal from the public. Mr. Disraeli was not, it may be, very wise, but he was probably quite accurate, when he said in 1871 that the Queen was suffering from a physical incapacity. In September 1871 the obscure symptoms which were causing anxiety to her advisers were accompanied by more acute illness. The Queen suffered from 'an affection of her throat, which was followed by a severe abscess under her arm.'[1] The nation, however, paid little attention to the Queen's illness. Even a Parsee would cease to worship the sun if the rays of that vast luminary were perpetually obscured by a London fog; and the men who toiled, and the men who stood idle, ceased to take any real interest in a monarch whom they never saw, and of whom they rarely heard.

The Prince of Wales.

The neglect of the Crown was partly redeemed by the activity of the heir apparent to the throne. The Prince did his best, during his mother's retirement, to discharge the ornamental functions of royalty, and the presence at his side of the beautiful and gracious lady to whom he was married in 1863 added a new charm to the attraction which his presence everywhere excited. The Prince's never-failing tact, the Princess's ever-winning beauty, were some compensation for the Queen's absence.

[1] *Times*, 14th of September, 1871. See also a letter of Lord Granville to Mr. (afterwards Sir A.) Helps on this subject in Fitzmaurice, *Life of Lord Granville*, vol. ii. p. 18.

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At the end of November 1871 the Prince, who had been lately staying with Lord Londesborough in Yorkshire, and who was about to pay a visit to Maharajah Dhuleep Sing in Norfolk, was seized with a febrile attack, which gradually developed into typhoid fever. For some days the bulletins which were issued by his medical attendants were so favourable that little public anxiety was created; and the Queen, who had gone to Sandringham, where her son was lying ill, was allowed to return to Windsor. A few days later an unfavourable bulletin suddenly aroused the anxiety of the nation; the Queen on the 8th of December hurriedly returned to Sandringham, which she had left a week before. On Monday, the 11th of December, the Prince was so dangerously ill that the leading newspaper of the day began its article with the words 'The Prince still lives, and we may still therefore hope.'

His dangerous illness.

The anxiety of the nation was the more intense because the Prince's illness corresponded in time with the date of his father's death. On the 14th of December, 1861, the Prince Consort had died of typhoid fever at Windsor, and on the very eve of the anniversary his son was lying at death's door at Sandringham. People who were superstitious thought that the day which had robbed the Queen of her husband would deprive her of her son. People who were not superstitious reflected that the anniversary must add new sorrow to some of those who were watching by the Prince's bedside, and that its occurrence, if it was recollected by the sufferer, might have a bad effect on the patient himself. At any rate, when the morning of the 14th arrived the heart of the nation almost stood still.

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The bulletins, which were published everywhere, were scanned with anxiety; happily, they gave every cause for hope. The day, which had been anticipated as the day of death, proved the day of recovery. Even the Prince's medical advisers forgot the customary precautions of their profession in their happiness in acknowledging that the Prince was better. When the fever had once turned nothing hindered his convalescence; and at the close of the month the Queen, in a letter which touched the hearts of the nation, thanked her dear subjects who had watched with her over the sick-bed of her dear son.

His recovery.

The angel of death sailed away from the palace over which he had hovered so long, but he left behind him that precious gift of charity or love which the Apostle tells us is the greatest of all good things. The nation, which had ceased to sympathise with the widow in a mourning which it considered unduly prolonged, was won by the thought of the mother weeping for her son. Her simple and grateful language on her son's recovery appealed to rich and poor. Some weeks later still, when the Prince's returning strength enabled him to face the fatigues and the exertion, she accompanied her son to St. Paul's to return thanks to Almighty God for her son's restoration to health. Perhaps of the many royal progresses which have been seen in Western Europe during the last nineteen centuries there has never been one so devoid of the trappings or trimmings of royalty. With hardly more state than an ordinary country gentleman could command, the Queen drove through the crowded streets of London with her son and her daughter-in-law to the Metropolitan

The Thanksgiving.

Cathedral. But probably no other royal progress, during all those centuries, made so deep an impression on the feelings of a nation. It moved a people to tears.

From that day the Queen occupied a wholly new position among her people. In her youth she had attracted all classes by her grace. After her husband's death she had alienated many classes by her prolonged abstention from the duties of her position. From the time of the Prince's illness she won the affections of her subjects by her sympathy. It was gradually recognised that the Queen was no creature of texture or passions different from those of other men. She was of flesh and blood like themselves. She was a woman whose acquaintance with grief filled her with sorrow for those who mourned, whose own unhappiness brought home to her the unhappiness of others. If her heart was still too heavy to enable her to rejoice with her subjects in their joy, she could weep with them in their trouble.

Sympathy with the Queen.

The Prince's illness and the Queen's returning popularity had no direct influence on the fortunes of the Ministry, but they were not without effect on the future of the Liberal party. That party was known to comprise men who, like Sir Charles Dilke, were the aggressive critics of royalty, or who, like Mr. Fawcett, were the somewhat doctrinaire advocates of republican government. The increasing popularity of the Crown filled men with distrust of a party which comprised within its pale the advocates of republicanism; and the Liberal party lost, as the Conservative party gained, something from the more active sympathy with monarchy which the Prince's illness had excited.

Effect on the Liberal Party.

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Above and beyond these considerations, the unexpected reappearance of the indirect claims in the American case—to which reference has been made in the preceding chapters—increased the embarrassments of the Ministry. Mr. Gladstone and Lord Granville had done something, the Americans were to do more, to arouse the latent imperialism in the British people. The astute statesman who presided over the fortunes of the Conservative party was on the eve of discovering that he might rally his discomfited followers under the banner of empire.[1] His supporters, conscious of the growing difficulties of their opponents, were responding, with a new and strange enthusiasm, to the language of their chief. The whole drift of opinion had been changed in the three years which had passed since the general election. A foreign policy which was denounced as false; a domestic policy which was regarded as irritating, had alienated the sympathies of the nation from Mr. Gladstone and his colleagues. And though on occasions they could still rely on the support of a majority elected in other circumstances in 1868, the whole trend of events at home and abroad was discrediting the Ministry.

Mr. Disraeli and the Empire.

February 6, 1872. 'Spoke an hour after Disraeli on the Address. The Alabama and Washington questions lay heavily on me all the evening. Even

[1] For the *imperium et libertas* see Mr. Disraeli's speech at the Guildhall on the 10th of November, 1879. At Manchester, it may be recollected, in May 1872, Mr. Disraeli declared, on the authority of 'a great scholar,' that the Preacher had written not *Vanitas vanitatum* but *Sanitas sanitatum omnia sanitas*. In the previous August (*Times*, August 8, 1871) he had attacked the Government for wasting time over the ballot and neglecting sanitary legislation. The criticism no doubt reminded him of the epigram.

during the Speech I was disquieted, and had to converse with my colleagues.'[1] In these words the great Minister, who held so large a place in his country's eye, described his feelings on the first night of the session of 1872. And the sense of oppression which Mr. Gladstone felt lay on the Ministry throughout the session. Men might nominally be occupied with discussing the measures which the Ministry was introducing, or the struggle between capital and labour, which was entering on a new phase in 1872, but their thoughts were busy with another matter. In the presence of that vast indefinite claim which our kinsfolk on the other side of the Atlantic were raising, how could men care whether a village public-house closed at 10 or at 11, or whether some working man did or did not receive the protection of the ballot for his vote?

The Alabama claims.

For in the comparatively meagre harvest which rewarded the Legislature in the session of 1872, two measures—and two measures alone—stand conspicuous. One, introduced in the cause of temperance, to limit the opportunities for drink; the other, in the cause of freedom, which secured to Parliamentary electors the protection of the ballot.

The movement for the ballot in the past.

The adoption of the ballot had been advocated by reformers in the closing years of the reign of George III. It had been actually included in the original draft of the first Reform Act; it had been one of the clauses of the people's Charter; it had been annually recommended by Mr. Grote, the historian of Greece. But the proposal found little favour among responsible statesmen. Men like Lord Palmerston argued that the franchise was a trust,

[1] Morley's *Gladstone*, vol. i. p. 409.

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and that a trust, from its very nature, should be discharged in the light of day. Men like Mr. Gladstone, in the first flush of youth, declared that secret suffrage had led to the fall of the Roman Republic.[1] Lord Shaftesbury recollected that a distinguished citizen of the United States had advised him to resist to the last the introduction of the ballot, which could 'never coexist with monarchical institutions.'[2] The cause of the ballot, in the days of Lord Palmerston, was associated with political agitators, philosophic Radicals, and the Manchester school; and these classes had little influence among the venerable statesmen who then governed England, and whose opinions had been formed before the Queen had come to the throne.

Its adoption forwarded by the Reform Act of 1867.

The 'leap in the dark' which Lord Derby made in 1867 led, among other things, to a reconsideration of these conclusions. The old argument on which Lord Palmerston had relied, that the franchise was a trust, lost most of its weight when the franchise was extended to every householder in boroughs. For when the principle was once admitted that the masses of the people should be given a vote, there was no longer any room for saying that those who had votes were to use them in the interest of those who had not. Experience of an extended franchise, moreover, tended to show that a larger increase in the number of electors did not promote order at election times, and that the new compound householder was in as much need of protection from outside influence as the ten-pound householder. Partly from these considerations, partly from the

[1] Morley's *Gladstone*, vol. i. p. 99.

[2] Daniel Webster, see *Life of Shaftesbury*, vol. iii. p. 293.

fact that the Parliament elected in 1868 was largely recruited from new material insensible to old arguments, and partly from the presence of such men as Mr. Bright in the new Cabinet, the Queen, in opening the session of 1869, was advised to recommend Parliament to inquire into the modes of conducting Parliamentary and municipal elections, and to consider whether it might be possible to provide any further guarantee for their tranquillity, purity, and freedom.[1] And, in conformity with the intimation in the Speech, Mr. Bruce, as Home Secretary, proposed the appointment of a Select Committee to inquire into the subject. The facts which Mr. Bruce stated in proposing the inquiry were appalling. The admitted expenditure at the General Election of 1865 had exceeded 750,000*l.*; the actual expenditure would not, however, have been covered by 1,000,000*l.* The actual expenditure of 1868 had exceeded the expenditure of 1865; in one constituency the expenses of a single candidate had been returned at over 15,000*l.* 'The effect of all this expenditure had not only further demoralised a class already lost to all sense of honesty in these matters; it had the further' effect of encouraging useless contests for the sake of profit to those who had better be nameless. Mr. Bruce himself had hitherto retained an open mind on the subject. But the scenes which he had witnessed at the last election had made him doubt very much whether, admitting all that could be said against the system of secret voting, the arguments on the other side were not the weightier. The reasons which were affecting Mr. Bruce were not without their influence on the other side of the House. The

Appointment of a Select Committee in 1869 to inquire into the subject.

[1] *Hansard*, vol. cxciv. p. 125.

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motion was agreed to, and a large and representative Select Committee appointed.

Report of Lord Hartington's Committee.

The Committee over which Lord Hartington presided, and which definitely reported in the beginning of 1870, was practically unanimous in agreeing that grave scandals existed, but was naturally much less unanimous on the remedy to be applied to them. But the Government wisely decided to look to the Committee for their facts and trust to themselves for their measure. They accordingly determined, in accordance with the advice of the Committee, to adopt the ballot; but, contrary to its opinions, to adopt some machinery which would make it possible, in the event of a scrutiny, to determine how each vote had been given. Against the advice of the majority, they decided to abolish public nomination, as a frequent cause of disorder. In accordance, however, with the recommendation of the Committee, they determined that no room at a public-house should be hired for any purpose except that of holding a public meeting; and that any expenses incurred by a candidate or his agent, and not included in the returns of election expenses, should be regarded as a corrupt payment.[1]

Withdrawal of the Ballot Bill of 1870.

The Bill by no means met with universal approval. Some men, like Mr. Leatham, the member for Huddersfield, were so convinced that the ballot was a necessity that they would have liked to omit all extraneous matter from the measure.[2] Other men, like Mr. Fawcett, who regarded the expenses of Parliamentary elections as a fatal obstacle to the introduction of working men to the House, complained that no provision was made in the Bill for

[1] *Hansard*, vol. cci. pp. 431 *seq.* [2] *Ibid.*, p. 446.

throwing the cost of elections upon the rates.[1] In the presence of an unusual amount of other legislation, the Bill—thus early the subject of criticism—made no progress, and towards the end of the session was withdrawn.[2]

If, however, nothing was done during the session of 1870 to secure for Parliamentary electors the protection of the ballot-box, one step was taken towards the introduction of secret voting. For in preparing the by-laws for the election of the London School Board under the Education Act of 1870, a provision was inserted that the election should be conducted by ballot. An opportunity therefore arose, of which some members of the Cabinet availed themselves, of watching the progress of an election in which the votes were given in secret. Mistakes, no doubt, occurred in the introduction of a new system. Even a member of Mr. Gladstone's Cabinet so little understood the nature of secret voting, and the reasons which suggested it, that he asked the returning officer on what part of the paper he should sign his own name.[3] But if experience showed that men who were presumably intelligent could make such mistakes, there was little doubt that the election was, on the whole, conducted with great ease and with little or no disturbance. The experiment had, in fact, done more than the strongest argument to remove the fears which alarmed timid persons, that the ballot would lead to personation and fraud. Confirmed by this experience the Government early in the session of 1871 reintroduced the Bill. But as Lord

Ballot adopted for London School Board Elections.

[1] *Hansard*, vol. cci. p. 448.
[2] *Ibid.*, vol. cciii. p. 412.
[3] *Life of Forster*, p. 319.

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Hartington had now succeeded to the Irish Office,[1] they entrusted the measure to the guidance of Mr. Forster. The Bill differed in some respects from that which Lord Hartington had introduced in the previous year; for on the one hand it made no provision for a scrutiny, and on the other hand it met the wishes of the extreme wing of the Liberal party by throwing the expense of elections on the constituencies. It is hardly necessary to relate the progress—or non-progress—of the measure through the House of Commons. The Opposition, resolute in its dislike to the Bill for the Abolition of Purchase in the Army, which was struggling in the same year through the House, strained the rules of Parliament to obstruct both measures. Both of them finally reached the House of Lords. But the Ballot Bill only reached that House on the 8th of August, and after the Conservatives had been propitiated by the sacrifice of the clauses which threw the expenses of elections on to the rates.[2] The House of Lords had some excuse for saying that they could not be expected to examine a complicated measure in the last days of an expiring session, when many of their members were much more anxious to shoot grouse than to pass a Bill opposed to the traditions of their order. On Lord Shaftesbury's motion, the Bill was accordingly rejected. The Peers did not even feel it necessary to attend in any strength, or to waste many hours on a measure which had occupied the time of the Commons for months.[3]

The Ballot Bill of 1871 rejected by the Lords.

[1] On Mr. Bright's resignation from ill health, Mr. Chichester Fortescue had been moved from the Irish Office to the Board of Trade, and Lord Hartington had become Chief Secretary to the Lord Lieutenant.

[2] See on this point *Life of Fawcett*, p. 276.

[3] *Hansard*, vol. ccviii. pp. 590, 1085, 1307.

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The action of the Lords in summarily rejecting the Bill had one consequence. Mr. Gladstone had never been a vehement opponent, and he certainly could not be regarded in 1871 as an ardent supporter of the ballot. He accepted it with a lingering reluctance.[1] But the rejection of the measure by the Peers turned his indifference into indignation. So long as the representatives of the people were either promoting or obstructing the Bill, Mr. Gladstone was content to watch its progress patiently; but as soon as an hereditary body ventured on challenging the verdict of the Commons the cool spectator warmed into the strenuous partisan. 'The people's Bill had been passed by the people's House; and when it was next presented at the door of the House of Lords it would be with an authoritative knock.'[2] The question was no longer whether the ordinary elector should or should not receive the protection of the ballot: it was now whether the Lords or the Commons had the right of deciding how the people should vote.

Mr. Gladstone's change of attitude.

Thus at the opening of the session of 1872 the Queen was advised to invite the attention of Parliament to 'several measures of acknowledged public interest,' and 'in particular' to 'a Bill having for its main object the establishment of secret voting.'[3] And two days afterwards, on the first available moment of the session, Mr. Forster obtained leave to introduce the Bill. Except that the Government had decided to exclude from the measure the clauses relating to the prevention of corrupt practices, to

The Bill of 1872.

[1] Morley, *Life of Gladstone*, vol. ii. pp. 367, 368.

[2] *Ibid.*, vol. ii. p. 369.

[3] *Hansard*, vol. ccix. p. 5.

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be dealt with separately, the Bill was the same Bill that the Lords had rejected. It did not even include the provision for throwing the expenses of elections on the rates. After the long debates on the ballot in 1871—which, Mr. Forster reminded the House, had been protracted over twenty-seven sittings—the Government felt it was only respectful to the House to pay respect to its decisions and abide by them.[1] It was manifest that, if this deference involved the sacrifice of some remedies which the Ministers might desire to retain, it gave them the advantage of sending to the Lords, not their own project, but the handiwork of the Commons. It emphasised the issue on which Mr. Gladstone was practically taking his stand, whether the Lords or Commons should decide the manner in which the people should vote.

This treatment of the question probably facilitated the passage of the measure. The Opposition thought it unwise to contend seriously against a preponderating majority;[2] so the Bill introduced in February was sent to the House of Lords at the end of May. The Lords had not another opportunity of alleging that they had not ample time to consider the provisions of a Bill which they disliked. Lord Ripon, in moving its second reading, was able to cite, not merely the experience which had been gained at the election of the London School Board, but the testimony of two Conservatives who had been selected for the Governorships of Australian colonies, and who bore

[1] For Mr. Forster's speech, *Hansard*, vol. ccix. p. 172.

[2] The most serious division occurred on an amendment of Mr. Leatham's, forbidding the voter wilfully to display his ballot paper after marking it (*Ibid.*, vol. ccx. p. 1292), and the amendment was rejected by 274 votes to 246. *Ibid.* p. 1508.

emphatic testimony to the satisfactory working of the ballot in Tasmania and South Australia.[1] The majority of the Conservative Peers, unwilling to support a measure which they had hitherto opposed, and reluctant to provoke a crisis between the two Houses, stayed away from the division; and the Bill was read a second time in a small House by an adequate majority.[2] In Committee, however, the Peers did not exercise a similar tolerance. They restored to the Bill a provision which had been inserted in Lord Hartington's draft of 1870 for securing, in case of need, an effective scrutiny.[3] They accepted a second amendment, intended to make the secrecy of the ballot paper optional on the part of the voter.[4] They accepted a motion for increasing the number of polling places.[5] They agreed to an amendment extending the hours of polling to eight in the evening;[6] and they threw out another directing that public-houses should be closed on polling day.[7] Finally they adopted a proposal limiting the life of the Bill to eight years; and, after bestowing a little spare time on some of the schedules of the Bill, the Lords adjourned with the satisfaction of having, on a single evening, recast the chief measure of the session.

The Bill amended by the Lords.

The House of Commons could not, of course, accept the more important of these amendments. They consented, indeed, in deference to the wishes of the Lords, to insert provisions enabling a scrutiny

[1] Mr. Du Cane and Sir James Fergusson. *Hansard*, vol. ccxi. p. 1423.
[2] By 86 to 56. *Ibid.*, p. 1504.
[3] *Ibid.*, pp. 1801–1810.
[4] *Ibid.*, pp. 1812–1822.
[5] *Ibid.*, pp. 1827–1829.
[6] *Ibid.*, vol. ccxi. pp. 1831–1875. This clause was modified on report; and the poll was to be kept open till seven o'clock in summer, and five o'clock in the winter. *Ibid.*, vol. ccxii. p. 16.
[7] *Ibid.*, pp. 1841, 1842.

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to take place; but they insisted on framing these provisions so that they should not interfere with the secrecy of the ballot or permit a voter to determine whether he would record his vote in public or not; and they of course objected to the amendment which made the Bill temporary. On the ground of economy they also refused to accept the amendment increasing the number of polling places; but they adopted the provision, which the Lords had ultimately adopted, for keeping the poll open till seven o'clock in the summer and five o'clock in the winter![1] The Lords, in their turn, insisted on maintaining the clauses making secrecy optional and placing a time-limit on the Act's operation;[2] and the controversy between the two Houses raged on these points. The dispute was finally settled by the Lords giving way on the optional clause, and the Commons consenting that the time-limit of the Act should be eight years. On the expiration of that date, the Ballot Act was continued by the Act which is annually introduced to continue expiring laws. In 1880, indeed, no one objected to a secrecy against which the Conservative party had striven in 1872.[3]

Compromise effected between the Houses and Bill passed.

Thus an Act which a few years before no Parliament would have adopted, and which in its result has unquestionably done much to secure the independence of the voter and the tranquillity and purity of elections,[4] was placed on the Statute Book, and confers some distinction on the session of

[1] *Hansard*, vol. ccxii. pp. 347, 377.

[2] *Ibid.*, p. 753 *seq.*

[3] The Ballot Act is the 35 & 36 Victoria, c. 53.

[4] These words are from the Queen's speech at the end of the session. *Hansard*, vol. ccxiii. p. 860.

1872. In other respects, the Government was less fortunate. The rest of the session was largely occupied with discussing the details of a measure for amending the licensing laws; and this Bill, though it ultimately found its way to the Statute Book, took up a great deal of Parliamentary time and inflicted considerable embarrassment on its authors.

Licensing reform.

The question of licensing reform was no new one for the Government to take up. It had formed the subject of elaborate inquiry by a Select Committee in 1864.[1] It had been recommended in the Speech from the Throne in 1870.[2] It had been again suggested as a proper subject for legislation in 1871,[3] and the Government had found leisure, even in that agitated period, to introduce a measure of licensing reform. The preparation was entrusted to Mr. Bruce, the Secretary of State for the Home Department, a man whose abilities, whose manners, and whose capacity apparently fitted him to shine in almost any position, but to whom had been denied those sterner qualities of resolution which make men excel. Mr. Bruce, in 1871, introduced a measure which excited mingled feelings of hope and alarm. It advocated an interference with the sale of intoxicating liquors which had never been proposed by any previous Government, and which was not proposed by any succeeding Government in the nineteenth century. The magistrates' authority in issuing licences was practically left unchanged. But the magistrates, before proceeding to grant any

[1] *Parl. Papers*, 1864. Mr. Villiers's Committee recommended Free Trade in intoxicating liquors. But Free Trade was the universal panacea of the early sixties. Cf. *Hansard*, vol. ccx. p. 1313.

[2] *Ibid.*, vol. cxcix. p. 4.

[3] *Ibid.*, vol. cciv. p. 8.

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licences, were to ascertain whether the number of licensed houses in a district exceeded the proportion found in the Bill itself. If it exceeded the proportion no new houses were to be licensed. If it did not exceed or fell short of it, the magistrates were to consider 'what was the number of new certificates which the circumstances of the district would entitle them to issue. In the event of their opinion being that no increase of the number of certificates was desirable, none would be issued; if otherwise,'[1] they were to advertise their decision, and the ratepayers were to be enabled, by a majority of three-fifths, to veto or to reduce, but not to increase the number proposed. This measure alone, it was obvious, would not effect all that was required. No Government, in dealing with the question, could ignore the notorious fact that the number of licensed houses far exceeded the necessities of the population. The number, in fact, was so great that it was utterly impossible that the houses could be carried on at a profit if the law was obeyed, and pure and unadulterated liquor was sold.[2] Even in the interests of the trade some reduction in numbers was inevitable. But Mr. Bruce shrank from saying that any of these houses should be abolished without compensation; and he thought it impossible to compensate them either out of the Imperial Exchequer or out of the local rates. He accordingly adopted a compromise substituting 'for the present precarious annual licence an assured certificate for the term of ten years,' subject to a moderate rent; and empowering the magistrates to decide at the end of

Mr. Bruce's proposals.

[1] *Hansard*, vol. ccv. pp. 1077, 1881.

[2] *Ibid.*, vol. ccv. p. 1081.

that term what number of certificates should be issued. 'The decision of the justices, if in favour of a larger proportion than that indicated in the Bill, would be subject to the popular vote of the ratepayers.'[1] 'He further proposed that public-houses in the metropolis should be closed between midnight and 4 A.M.; in provincial towns with a population of not less than 10,000, between 11 P.M. and 4 A.M.; and in the rest of the country at 10 P.M. It is possible that, if this Bill had been introduced in 1869 or in 1870, when the tide of Liberalism was still flowing with the force which had been imparted to it by the Reform Act of 1867 and the general election of 1868, it might have become law. But in 1871 a House of Commons which was obstructing the Army Purchase Bill, which was agitated by the debate on the Ballot Bill, and which had little sympathy with Mr. Goschen's proposals for the reform of local government and local rates,[2] had no particular desire to offend another interest. The friends of temperance, moreover, were disappointed that the Bill did not vest in the inhabitants of each district the right to determine summarily what houses should be licensed. The owners of public-house property were alarmed at a proposal which threatened a large extinction of licensed houses. Thus assailed on both sides, it soon became evident that there was no chance of the Bill becoming law, and it was withdrawn on the 8th of May, a little more than a month after its introduction.

Mr. Bruce's Bill of 1871 withdrawn.

[1] *Hansard*, vol. ccv. pp. 1083, 1084.

[2] The second reading of the Ballot Bill was passed on the 3rd April, the same evening as that on which Mr. Bruce's and Mr. Goschen's Bills were introduced.

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In withdrawing it Mr. Gladstone was careful to explain, on the part of the Government, that it was intended to introduce another Bill reviving what he called the police clauses, relating to the hours of closing and the adulteration of liquor.[1] But in the growing confusion which characterised the session it became evident that there was no chance of carrying even this minor measure; and, in the expiring days of the session, Ministers introduced, and succeeded in carrying, a much smaller enactment suspending, for the moment, the issue of new licences.[2]

Warned by the experience of 1871, the Government in 1872 did not venture on reintroducing the heroic remedy which they had endeavoured to apply in 1871. They contented themselves, instead, with bringing forward the regulation which Mr. Gladstone had indicated in the previous year that he hoped to carry. This time no real attempt was made to limit the number of public-houses; but the hours of closing which Mr. Bruce had proposed to adopt in 1871 were incorporated in the new Bill. Instead, moreover, of introducing it in the House of Commons, they decided that, in the first instance, it should be discussed in the House of Lords. This expedient was defensible on the ground that the House of Lords had always too little to do at the beginning, and too much to do in the crowded days at the close, of a session. But it also enabled the Government to place the measure, in the first instance, in the hands of Lord

The Bill of 1872 introduced in the House of Lords.

[1] *Hansard*, vol. ccvi. p. 401.

[2] This Bill, which was passed almost without debate, became the 34 & 35 Vict. c. 88. It prohibited the issue of any new licence without the approval of the Home Office. See *Ibid.*, vol. ccx. p. 1314.

Kimberley[1] instead of entrusting it to Mr. Bruce, who, as the parent of the Bill of 1871, had lost popularity out of doors and authority in the House itself.

Under Lord Kimberley's guidance the Bill made rapid progress. It was read a second time, without a division, on the 2nd of May, after a short debate, memorable for a declaration made by the Bishop of Peterborough that he would rather see England free than sober.[2] It passed through Committee on the 10th of May with a despatch which might have excited the envy of the House of Commons, and might have set an example to this most loquacious of assemblies;[3] and it reached the House of Commons by the middle of June. As the Commons, though they made various amendments to the Bill, did not introduce any provisions to which the Lords seriously objected, it was placed on the Statute Book and became law.

Licensing Bill passed.

The Act, in its final shape, was, so far as it went, useful.[4] But it of course contained none of the provisions which had attracted special notice in Mr. Bruce's abortive proposal of 1871. It made no effectual provision for the reduction in the number of public-houses either at that time or ten years afterwards.

[1] For Lord Kimberley's speech introducing the Bill see *Hansard*, vol. ccx. p. 1311.

[2] I have given the epigram as it is usually cited. The Bishop's words were: 'If I must take my choice—and such it seems to me is really the alternative offered by the Permissive Bill—whether England should be free or sober, I declare—strange as such a declaration may sound coming from one of my profession—that it would be better that England should be free rather than England should be compulsorily sober.' *Hansard*, vol. ccxi. p. 86. The Permissive Bill itself was debated on its second reading in the House of Commons the following Wednesday, and talked out (after a division on the adjournment). *Ibid.*, p. 498.

[3] *Ibid.*, vol. ccxi. pp. 565–599.

[4] 35 & 36 Vict. c. 94.

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It made no provision for the ratepayers exercising even a partial control over the number of licensed houses in their own locality. The Bill of 1871 had been based on considerations of high policy; the Act of 1872 was based on considerations of police. The former had been framed to remedy what its author rightly regarded as a grave evil; the latter had been prepared to conciliate opposition. The first had been the work of a Ministry still borne, or believing itself to be borne, forward by the rising tide of Liberalism; the latter was the compromise of a Government conscious that the force of the flood was already spent. Comparatively mild as the measure was, however, it did not succeed in conciliating the licensed victuallers. They complained that the hours of closing materially limited the opportunities of their trade; and they were less disposed to judge the Ministry by what they had done than by what they had intended to do. Thus the Ministry lost credit with those who wished more to be done, and also lost popularity with those who fancied that their interests had been attacked. The result was that a class of persons who had special opportunities of influencing opinion was added to the classes who were already complaining that the existence of a Liberal Administration was inconsistent with the security of property.

Limited character of the measure.

The knowledge that the tide which had borne Ministers to victory was already slackening not merely induced the Government to compromise one of the chief measures of the year, it simultaneously accounted for the no less singular fact that Mr. Lowe was content for once to produce a Budget that was not sensational. He had, in one sense, an easy task.

The Budget of 1872.

The revenue, which a year before had been estimated at 72,315,000*l.*, had produced 74,535,000*l.* The expenditure, which had been placed at the same time at 72,308,000*l.*, had only reached 71,720,000*l.*—an estimated surplus of some 7,000*l.* had grown into an actual surplus of 2,815,000*l.* Prosperity on the one hand, economy on the other, justified him in making a sanguine forecast for the immediate future; and he placed the revenue of 1872–3 at no less than 74,915,000*l.*, the expenditure at only 71,312,000*l.*, and the surplus at 3,602,000*l.*[1] With such a surplus a financier of Mr. Lowe's originality had a great opportunity. Instead of availing himself of it he made a reduction in the duty on coffee, and a small concession to the owner of offices in charge of a caretaker; he conferred a slight benefit on the payers of income-tax whose income did not exceed 300*l.* a year; and applied the bulk of his surplus to the remission of the additional duty of 2*d.* which had been added to the income-tax in the previous year.[2]

No one had much to say upon this Budget. Mr. Lowe had, for once, followed the line of least resistance, and secured himself against opposition

[1] The Budget figures were as follows:—

Revenue.		*Expenditure.*	
Customs	£20,300,000	Debt	£26,830,000
Excise	23,320,000	Consol. Fund	1,780,000
Stamps	9,700,000	Army	14,824,000
Taxes (Assessed)	2,350,000	Navy	9,508,000
Income Tax	9,950,000	Civil Service	10,652,000
Post Office	4,770,000	Revenue Department	2,621,000
Telegraphs	850,000	Post Office	2,610,000
Crown Lands	375,000	Telegraphs	500,000
Miscellaneous	3,300,000	Packet Service	1,135,000
		Abolition Purchase	853,000
	£74,915,000		£71,313,000

Hansard, vol. ccx. p. 620.

[2] *Ibid.*, vol. ccx. pp. 621–625.

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Unpopularity of the Government.

by adopting the course which nine persons out of ten wished him to take. But his action only confirmed the general impression that the power of the Government was shaken to its foundation. The classes were in revolt against a Ministry which had offended the Church in 1869, the landed gentry and the Nonconformists in 1870, the Army in 1871, and the licensed victuallers in 1872; the masses had lost enthusiasm for a Government which had enforced economy by closing dockyards, and which had restricted the opportunities for drink by closing public-houses; while both classes and masses thought that the influence of the country abroad had been lowered by the concession to Russia in the Black Sea, and by the incautious proceedings that gave the United States a pretext for raising the indirect claims to compensation. The Ministry, too, were not only losing popularity in the country, they were out of touch with their own supporters. On the right wing of the party were 'the Whigs, who never forgot that the Prime Minister had been for half his life a Tory; who always suspected him, and felt no personal attachment to him.' On the left were the Radicals, 'not strong in Parliament, but with a certain backing among the workmen, who thought their leader too fond of the Church, too deferential to the aristocracy, and not plain enough and thorough enough for a reforming age.'[1] By a singular fate, landlords and Churchmen were complaining of what the Prime Minister had done; while Nonconformists and Radicals were grumbling at what he had failed to do.

[1] Morley, *Life of Gladstone*, vol. ii. p. 388.

CHAPTER XVI.

THE CHANGE OF MINISTRY—MR. DISRAELI.

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THE dissatisfaction that was spreading during 1872 among various sections of the Liberal party, and the growing unpopularity of the Government, would have been in any case ominous portents. But this state of things also incidentally afforded an opportunity to the clever strategist who was watching Mr. Gladstone across the floor of the House of Commons. Mr. Disraeli had played a comparatively small part in the sessions of 1869 and 1870. The leisure of the first of these years had been devoted to 'Lothair,' which was published in 1870. But the difficulties of 1871 had stimulated him to fresh exertions; and the embarrassments of 1872 gave him a new opportunity. In the comparatively short recess which the Parliament was allowed at Easter he took the occasion of making a speech at Manchester which was intended to disconcert his opponents and to rally his own friends. As for his opponents, Mr. Gladstone's Ministry was the first instance, within his knowledge, of an 'Administration avowedly formed on a principle of violence.' Their 'specific was to despoil churches and to plunder landlords.' 'Not satiated with the spoliation and anarchy of Ireland, they began to attack every institution and every interest, every class and calling

Mr. Disraeli's speech Manchester.

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in the country. I doubt not there is in this hall more than one farmer who has been alarmed by the suggestion that his agricultural machinery should be taxed. I doubt not there is in this hall more than one publican who remembers that last year an Act of Parliament was introduced to denounce him as a sinner. I doubt not there are in this hall a widow and an orphan who remember the profligate proposition to plunder their lowly heritage.'[1] 'But, as time advanced, it was not difficult to perceive that extravagance was being substituted for energy by the Government. The unnatural stimulus was subsiding. Their paroxysms ended in prostration. Some took refuge in melancholy, and their eminent chief alternated between a menace and a sigh. As I sat opposite the Treasury Bench, the Ministers reminded me of one of those massive landscapes not very unusual on the coasts of South America. You behold a range of exhausted volcanoes. Not a flame flickers on a single pallid crest. But the situation is still dangerous. There are occasional earthquakes, and now and anon the dark rumbling of the sea.'[2]

When Parliament resumed its labours after the short Easter holiday, on the day after this speech, members on both sides of the House were laughing at Mr. Disraeli's description of Ministers as a range of exhausted volcanoes,[3] and before many days were over evidence was forthcoming that the volcanoes

[1] Mr. Kebbel says, I presume rightly, that this reference is to Mr. Gladstone's proposal in Lord Palmerston's Administration to tax charities.

[2] See for quotation in text *Selected Speeches of Lord Beaconsfield*, vol. ii. pp. 512, 513, 515, 516.

[3] Mr. Maguire, M.P. for Cork, said in the Lobby: 'He should not have called them a range of exhausted volcanoes. He meant a set of empty craters (craythurs).'

were not only exhausted but, to some extent, powerless. On the 15th of April Ministers were defeated on the Ballot Bill by a majority of one. On the 16th of April they were beaten on a motion for the reform of local taxation by a majority of one hundred, and on the 18th of April they sustained a fresh defeat on the Ballot Bill by a majority of twenty-six.[1] These defeats constituted a week of disasters, lowering prestige, stimulating discontent, and animating the Opposition;[2] and more discomfiture followed. On the 6th of May they sustained a new defeat on a measure which the Lord Advocate had introduced for regulating education in Scotland.[3] This series of defeats encouraged the Opposition; and Mr. Disraeli, in June, at a great meeting of the Conservative Association at the Crystal Palace, again endeavoured to rally his supporters. The speech in June bore a close resemblance to the speech of April. The Liberal party was still engaged in attacking the institutions of the country. It was contrasting 'the simplicity and economy of the sovereignty of the United States with the cumbrous cost of the sovereignty of England.' It was declaring that the constitution of the House of Lords was 'anomalous,' its influence 'pernicious.' And it was systematically and continuously attacking the Establishment. But

Defeats of the Ministry.

[1] The defeat on local taxation was on a motion of Sir Massey Lopes, declaring the expediency of remedying 'the injustice of imposing taxation for national objects on one description of property only.' The motion was carried by 259 votes to 159. *Hansard*, vol. ccx. p. 1404. The defeat on the Ballot Bill arose on a proposal of Mr. Leatham (which was supported by Mr. Forster) to punish any voter who wilfully disclosed his vote. The word 'wilfully' was struck out, on the 15th of April, by 167 votes to 166 (*ibid.*, p. 1303), and the whole amendment was thrown out on the 18th of April by a majority of 274 votes to 248. *Ibid.*, p. 1508.

[2] The verdict is Mr. Bruce's, and is quoted by Mr. Morley, *Life of Gladstone*, vol. ii. p. 389.

[3] *Hansard*, vol. ccxi. p. 352.

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the people of England were determined to uphold the monarchy; they had discovered that the existence of a Second Chamber was 'necessary to constitutional government,' and they saw in the Church, or at any rate Mr. Disraeli saw in the Church, 'an immense effort to win the national feelings and recur to national principles.' The first object of the Tory party was to maintain the institutions of the country, and in the present temper of the people the Tory, or the National party, as he would venture to call it, had everything to encourage it. Perhaps Mr. Disraeli reflected at this point that these turgid phrases meant very little. He could hardly have forgotten that Sir Charles Dilke in his attack on monarchy had been left in a minority of two, and that the defence of the Crown had been undertaken in the debate, not by himself, but by Mr. Gladstone. He must have remembered that no responsible Minister was seriously proposing to interfere with the privileges of the Lords, and that Mr. Gladstone had from the first day of his career been bound to the Church by affection, while Mr. Disraeli himself had only supported it from expediency. He could hardly hope to rally a party on the ground that it was required to defend institutions which the Cabinet had no intention to destroy. On this consideration, possibly, his eloquence took a wider range, and he thereby made a notable discovery. Forgetting that he himself had described in a letter to a colleague those wretched colonies as a millstone round our necks, he declared that the Liberal party had looked upon the colonies of England, looked even on our connection with India, as a burden upon this country. In consequence, when they gave the colonies self-govern-

Mr. Disraeli at the Crystal Palace.

ment they had omitted to provide an Imperial tariff, to secure to the people of England the enjoyment of their unappropriated lands, or by the institution of some representative council in the metropolis to bring the colonies into constant and continuous relations with the home Government. He did not proceed to inquire into the effects of the measures, which he declared should never have been taken; he did not address himself to the problem—what consequences would have ensued if the mother country had retained the unsettled lands of the empire in its own hands, and exerted its right of imposing its tariff on its distant possessions. He contented himself with declaring that the second great object of the Tory party was the maintenance of the empire. And he described the great issue before the country as no mean one. It is whether you will be content to be a comfortable England, modelled and moulded upon Continental principles, and meeting in due course an inevitable fate, or whether you will be a great country—an Imperial country—a country where your sons, when they rise, rise to paramount positions, and obtain not merely the esteem of their country, but command the respect of the world.[1]

Analysis of the argument.

In an historical sense, the argument of this famous speech does not bear examination. It is, indeed, undoubtedly true that the great autonomous colonies of England have grown, through their own efforts, without much assistance from the mother country. It is equally true that public men of all parties and public men of no party had, equally with Mr. Disraeli, regarded the colonies as burdens, and had anticipated their separation from the empire.[2]

[1] *Collected Speeches*, vol. ii. p. 523. [2] See *ante*, vol. i. p. 18.

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But it is also true that the men who had been foremost in advocating another policy, and the statesmen who had been foremost in contributing to the welfare of the colonies, had belonged to the Liberal party. Sir W. Molesworth was a Radical; and Sir W. Molesworth was the first man in England to impress on his fellow-countrymen the advantage of her colonies. Lord Durham was a Radical; and Lord Durham was the statesman who won for this country the friendship of its chief colony. Lord John Russell and Lord Grey were Liberals; yet they were the Colonial Ministers who in the first sixty years of the century had made their mark in colonial administration. Mr. Disraeli's own friends had done nothing in the same direction. Whatever merits Sir John Pakington had possessed in 1862, or Sir H. Bulwer Lytton in 1858, or even Lord Carnarvon in 1868, no one could pretend that they had any of them displayed any Imperial tendencies in their administration of the Colonial Office.

Unpopularity of a non-intervention policy among the new electors.

But if in an historical sense the argument would not bear examination, it was exactly suited to the temper of the people to whom it was addressed. The last chance of a policy of non-intervention abroad, and economy at home, disappeared with the swamping of the ten-pound householder. The new constituencies which Mr. Disraeli himself had done so much to create had no particular anxiety for retrenchment, which they connected with a reduction in the demand for labour, and still less fancy for a tame and unaggressive foreign policy. They had no sympathy with the Ministers who had surrendered to Russia the cause for which they themselves had fought only fifteen years before; they resented the

fact that England had stooped to apologise to the United States for her conduct during the Civil War, and they disliked the notion of referring to arbitration claims which many of them were prepared to resist with the sword. They had, moreover, a settled conviction that foreign nations jealous of the prosperity of this country were not likely to mete out impartial justice; and they were confirmed in this belief by the facts that the tribunal at Geneva returned a verdict unfavourable to England, and that the German Emperor, immediately afterwards, decided against this country on the San Juan dispute. It added to the anxiety of the nation that at this particular conjuncture Russia, by the occupation of Khiva, brought her outposts in Central Asia a little nearer to the frontier of Afghanistan; and that the Ministry, instead of resenting this fresh encroachment, seemed chiefly anxious to arrive at some bloodless compromise on the subject. It must be confessed, too, that in submitting to these discomfitures Ministers showed a Christian patience which, however exemplary from a religious standpoint, was a little trying to a proud and sensitive race. The Queen, in opening Parliament in 1873, was advised to use language which almost implied that the adverse awards at Geneva and Berlin had given her pleasure.[1] Such language seemed, to say the least, rather tame. The policy which Ministers were pursuing, the language which they were using, differed widely from the policy and language of their predecessors in worthier times. The great empire on which Mr. Disraeli had been so eloquent had not been won by concession; it could

[1] See the speech, *Hansard*, vol. ccxiv. pp. 3, 4.

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not be maintained by compromise. The position which the sword had won for England could only be maintained by the sword.

If the Government was fast losing the confidence of the House, Mr. Disraeli, it so happened, was gaining the sympathy of all classes from a loss which he unhappily sustained. In December 1872 the lady who for thirty years had been the most faithful of wives, and the most fervent of admirers, was taken from him. The hearts of his countrymen had been always touched by the grateful affection which Mr. Disraeli had constantly displayed for the wife who had brought him relief from the pecuniary embarrassments of his earlier years, and whom Mr. Disraeli treated with a respect that was never wanting, with a consideration that never failed. They were attracted by the depth of his sorrow, and by sympathy with his solitude. Their hearts went out to the statesman who, in the midst of his own grief, was standing forward as the champion of institutions which the nation venerated, and as the opponent of a foreign policy which it disapproved. In the past the people had regarded him as a sphinx; in the presence of a great sorrow they regarded him as a man.

Death of Lady Beaconsfield.

Above and beyond these considerations there was something in the situation which commanded attention. Since the days of Fox and Pitt there had never been a time when two men so immeasurably superior to their fellows had been sharply opposed to each other on the political stage. For except these two men there was no one on the front benches in either House who arrested the public eye. Men might praise Lord Granville's tact, or Lord Derby's prudence. 'The applause of listening

Gladstone and Disraeli.

senates' might be given to the Duke of Argyll on one side of the House of Lords, or to Mr. Gathorne Hardy on the other side of the House of Commons. But these men were merely the performers who filled the political stage while the chief actors were resting from their efforts or preparing themselves for some new entrance upon the scene. In 1873 no one cared what such men thought or said. All were concentrating their thoughts on the great duel in which Mr. Gladstone and Mr. Disraeli were engaged.

The Upas Tree.

Mr. Gladstone had been long conscious of the growing disrepute into which his Government had fallen. The embarrassments of 1871, the failures of 1872, had left their mark upon him, and could not be brushed away. He prepared himself in 1873 for a great effort. During the preceding two years the claims of Great Britain, and perhaps the ingratitude of the Irish people, had diverted his attention from his original policy. In 1873 he decided on attacking the third branch of the famous 'upas tree.'

Irish University Education.

The Irish, in 1873, had some opportunities for university education. The University of Dublin—containing a single but wealthy college, Trinity College—had been founded in the reign of Elizabeth. The Queen's University, embracing the three 'godless' colleges which Sir Robert had erected in 1845,[1] had been constituted by royal charter in the middle of the nineteenth century. The Queen's University was a purely unsectarian institution. The University of Dublin, on the contrary, was exclusively controlled by members of the Irish Church. It is true

[1] Walpole's *History of England*, vol. iv. p. 254.

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that, since 1793, this university had obtained authority from the Irish Parliament to admit Roman Catholics to its degrees; and that since 1859 it had actually conferred some of its studentships on members of that faith.[1] But the senate of the university was composed exclusively of members of the Irish Church. By a somewhat singular arrangement, indeed, the Provost and seven senior Fellows of Trinity College constituted the senate, and, in Mr. Gladstone's emphatic language, the university was 'in absolute servitude to the college.'[2]

From 1793 to 1845 the Irish Roman Catholics had freely availed themselves of the advantages of the university. It was possible, indeed, to say in 1870, that 'many of the Roman Catholic gentlemen who filled the highest official and judicial positions in Ireland obtained their education and their degrees at Trinity College, Dublin.'[3] The Irish Roman Catholics displayed much the same attitude to the Queen's colleges as they had already shown to the Dublin University. The opposition to the colleges came not from the Roman Catholics but from English Churchmen. But, in 1865, a change was created in Irish opinion. Cardinal Cullen, who had become Archbishop of Dublin in 1862, took occasion to declare that 'those parents and guardians who permitted their children to attend the Queen's colleges were unworthy of the sacraments of the Church, and should be excluded from them.' Dr. Derry, the Bishop of Clonfert, at the same time used similar language,[4] and Roman Catholic prelates,

The Queen's Colleges.

[1] See the excellent speech of Mr. Plunket (now Lord Rathmore), *Hansard*, vol. cc. pp. 1099, 1101.

[2] *Hansard*, vol. ccxiv. p. 392.

[3] *Ibid.*, vol. cc. p. 1099.

[4] *Ibid.*, vol. ccxiv. p. 1245.

at any rate Roman Catholic prelates of what was known as the Ultramontane school, were demanding that Roman Catholics should be educated at institutions to which members of their faith were only admissible; and that the youth of their Church should not be exposed to the risk which they believed to lie in colleges under sectarian or other management. Many of them even went further. They claimed for the Roman Catholic prelates an inherent right of authoritative supervision over university education in its bearing on the faith and morals of their flocks; and they asserted that this right included a power to intervene in the selection of teachers, to watch over them, and, if necessary, to remove those whose influence may be injurious to the spiritual interests of the Catholic youth.[1]

Irish Roman Catholics and the hierarchy.

The claim which the prelates of their Church were thus raising placed the laity of the Roman Catholic Church at some disadvantage. They had to choose between obedience to authority and university education for their sons. The position of the individual Roman Catholic in Ireland was not worse than that of the Roman Catholic in England. Both had to make the same choice. But in Ireland the vast majority of the population was Irish, and Irish opinion was in favour of the Roman Catholic claim; while in Great Britain the vast majority of the population was Protestant, and strongly opposed to fresh concession to Rome. The Irish prelates, moreover, exerted an influence on the minds and lives of their flocks which, in the more liberal atmosphere of the larger island, the English prelates did not attempt to employ.

[1] Archbishop Leahy, quoted in *Hansard*, vol. cc. p. 1139.

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If the question which was thus raised had been presented to an Irish Parliament, there is no doubt that the claims of the Irish prelates would have been accepted. In England, on the contrary, their acceptance involved a reversal of the policy which Parliament was applying. Liberal opinion was unanimously in favour of opening the doors of the English universities to men of all denominations, or even of no faith at all; and Liberal statesmen were busily occupied in repealing the tests which barred the way of those who, in various ways, were outside the pale of the Church, to the benefits and prizes of these great institutions. The divergence of opinion in the two countries was so marked that the spokesmen of either were almost as unintelligible to one another as if they had used different languages. In Ireland the Irish Roman Catholics contended that conscientious objections prevented them from going to a university where men of other creeds either supervised the studies or were even admitted to the schools. In England, on the contrary, it was thought that every scruple of the most fastidious conscience would be satisfied if men of every creed, or no creed, could aspire to every office or honour which a university could bestow.

Liberal opinion and the claims of the Irish bishops.

History of the Question.

Towards the close of Lord Palmerston's days the Irish side of the question was presented to the House of Commons by The O'Donoghue, a Roman Catholic who represented the county of Tipperary in Parliament.[1] And Sir George Grey, speaking as Home Secretary, indicated a remedy for the grievance by suggesting that the charter of the Queen's University might be amended 'so as to remove the restriction

[1] *Hansard*, vol. clxxx. p. 541.

which now prevents it from granting degrees to any students except those who have passed through the course of instruction in one or other of the Queen's colleges.'[1] In taking this course Lord Palmerston and his colleagues undoubtedly hoped that Roman Catholics, educated in some college under the exclusive guidance of men of their own faith, might be able to graduate in the Queen's University. In the spring of 1866, the Government over which Lord Russell was then presiding endeavoured to give effect to Sir George Grey's pledges. In the interval, however, opinion had been roused in Ireland. The Roman Catholics, on their part, had some doubt whether the remedy which the Government was contemplating went far enough. The Protestants of Ireland, on the contrary, were convinced that it went too far. They prepared a memorial urging Ministers to refrain from tampering with the system already in force; and, in the beginning of the session of 1866, they pressed the Ministry to promise to make no alteration in the charter till the House had an opportunity of expressing an opinion on the proposed change. Thus there was no doubt that the opponents of the new charter believed that they had obtained an adequate assurance from Mr. Gladstone that this would be done. But apparently the Government had not acted on this understanding; and men like Mr. Fawcett complained that the charter was issued, while the pledge was still unredeemed. A careful examination of Mr. Gladstone's language will probably exonerate him from a charge of breach of faith.[2]

[1] *Hansard*, vol. clxxx. p. 555.

[2] I think it hardly necessary to enter into the personal question of a breach of faith at greater length. Mr. Gladstone's so-called pledge will be found in *Hansard* vol. clxxxi. p. 811. The attack upon him in *ibid.*, vol. clxxxiv

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But it was undoubtedly the case that the charter was issued shortly before the fall of Lord Russell's Ministry, and before it had been discussed in Parliament.

The issue of a supplementary charter, indeed, would in any case have been insufficient to secure the full objects of the Ministry. The Law Officers advised that nothing but legislation could place those, who should have graduated under the amended Charter, on a footing of equality as members of the Convocation with other graduates of the university;[1] and the defeat of the Government made such legislation impossible. But, as a matter of fact, the whole arrangement proved abortive. The Roman Catholics declined to accept the boon which was offered them, and the Irish Master of the Rolls declared the charter invalid.[2]

Proposals of the Conservative Government in 1868.

A few years later the subject was approached under other auspices from another standpoint. Almost immediately after the retirement of Lord Derby, and the accession of Mr. Disraeli to the office of Prime Minister, Mr. Maguire brought forward his resolution on the state of Ireland, which led to Mr. Gladstone's famous declaration anticipating the policy of 1869 and of 1870.[3] In meeting Mr. Maguire's motion, Lord Mayo, speaking as Chief Secretary, dealt with the subject of university reform. The Government declined—so he said—to touch the old University of Dublin, which 'of all the institutions established in Ireland was the most prosperous and healthy.'

The attack was the more bitter because it was led by Sir Robert Peel, the Chief Secretary for Ireland on Lord Palmerston's death, who ceased to be Chief Secretary on Lord Russell becoming Prime Minister. Mr. Fawcett seems to have lost all faith in Mr. Gladstone as a university reformer from his conduct in the matter. *Life of Fawcett*, p. 282.

[1] *Hansard*, vol. clxxxiv. p. 282.

[2] *Life of Fawcett*, p. 283.

[3] See *ante*, vol. ii. p. 323.

It was similarly opposed to interfering with the Queen's University, which 'had done a great work in Ireland.' But side by side with these institutions the Government proposed to found a new university under exclusively Roman Catholic management.[1]

Failure of their scheme.

The atmosphere of the House of Commons in 1868 was not favourable to Lord Mayo's scheme. The Roman Catholic hierarchy did not think it went far enough: the Nonconformists thought it went much too far. They were ready to establish religious equality by depriving the Irish Church of any exclusive privileges which it enjoyed, but they were determined to resist any attempt to create at the cost or with the sanction of the State any new sectarian institution. Mr. Fawcett, however, who was already taking a leading part in the controversy, asked the House to affirm that equality should be secured for all religions by the removal of all disabilities from the fellowships, scholarships, and other honours and emoluments of Trinity College, Dublin.[2]

Mr. Fawcett's motion.

In the more liberal atmosphere of the Parliament of 1870, Mr. Fawcett renewed his own proposal. He was then able to enforce his argument by showing that the Provost and Fellows of Trinity College—probably charmed at Mr. Gladstone's attitude—were themselves disposed to adopt his remedy. He was able to secure as a seconder of his motion the services of Mr. Plunket, who had just commenced a distinguished Parliamentary career as member for the Dublin University. But his motion met with no

[1] *Hansard*, vol. cxc. pp. 1381, 1382, 1385.

[2] I have not thought it necessary to refer to Mr. Fawcett's motion of 1867, as I desire to concentrate attention on the main features of the controversy. For the motion of 1868, *Hansard*, vol. cxciii. p. 1054, and cf. *Life of Fawcett*, p. 280.

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success. Mr. Gladstone, speaking with some warmth, declined to receive any instruction from outside the Cabinet as to the manner in which the Government should deal with the higher education of the Irish people. 'It is impossible'—so he said—'for any Government which respects itself, or understands its duties, to surrender the initiation of those questions which have been committed to its care.'[1] Mr. Gladstone's declaration, which virtually amounted to an intimation that the passage of Mr. Fawcett's motion would be regarded as a vote of want of confidence, necessarily settled the question. The House, which was still affected by the flowing tide of Liberalism, had no desire to embarrass a Ministry which had already disestablished the Irish Church, and which was engaged upon the heroic attempt of reforming the Irish land system; and, after a division in which the Ministry was supported by a great majority, the House adjourned.

Mr. Fawcett's bill for the abolition of tests and the reform of the University of Dublin.

In 1871, in 1872, and in 1873 Mr. Fawcett renewed the proposals which he had made in 1870, embodying them, however, in a Bill instead of in a resolution. The Bill provided not merely for the abolition of tests, but for the reform of the government of the university so as make it exactly analogous to that of the reformed University of Cambridge.[2] The Bill was brought up for second reading at so late a period of a disturbed session that Mr. Gladstone found a reasonable excuse[3] for declining to

[1] *Hansard*, vol. cc. pp. 1090, 1097, 1124, 1129.

[2] *Ibid.*, vol. ccviii. pp. 694, 695.

[3] Dr. Lyon Playfair retorted, however, with great effect on Mr. Gladstone, that 'the argument will be brought with telling force against his Government when he sends the Ballot Bill to a co-ordinate branch of the Legislature—the House of Lords.' *Ibid.*, p. 728.

support it. In 1872 Mr. Fawcett introduced his measure in the early days of the session: and Mr. Gladstone offered to support it if it were confined to a simple proposal for the abolition of tests.[1] Mr. Fawcett subsequently complained that Mr. Gladstone's criticisms of the Bill of 1870 had induced him to insert the very clauses which the Prime Minister refused to support, and Mr. Fawcett's biographer has repeated the complaint.[2] Yet Mr. Gladstone's conduct was not quite so inconsistent as it looked. If his biographer is right, in 1870 he was still objecting to the secularisation of the Oxford colleges; and it was natural that if he was opposing the abolition of tests in Oxford, he would not be prepared to assent to their removal at Dublin. In 1872, on the contrary, he had already assented to the abolition of tests at the English universities; and he could not therefore consistently oppose their abolition in Ireland.[3]

Lord Hartington's 'instruction.'

The course, however, which Mr. Gladstone took was unusual. He directed Lord Hartington, as Chief Secretary for Ireland, to give notice of an instruction to the Committee on this Bill for its division into two parts; and he told Mr. Fawcett that, in the event of his consenting to drop the clauses relating to the constitution of the university, which he persisted in regarding as unsatisfactory and insufficient,

[1] *Hansard*, vol. ccx. pp. 327, 351.

[2] *Ibid.*, p. 730, and *Life of Fawcett*, p. 280. The *Times* at the time pointed out the inconsistency of Mr. Gladstone's conduct (27th March 1872).

[3] Morley's *Life of Gladstone*, vol. ii. p. 313. I confess I have some doubt as to the warning to Sir John Coleridge having been written so late as the end of 1870, as it does not seem to be consistent with the fact that the attention of Parliament had been directed to university tests in the beginning of the year. But Mr. Morley assures me that there is no doubt on the subject.

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he would do what he could to further the other portion of the Bill.[1] He subsequently allowed it to be understood—through a communication to the 'Daily News'—that he should treat the rejection of Lord Hartington's instruction as a mark of want of confidence in the Government,[2] which would involve his resignation. The instruction naturally sealed the fate of the Bill. The House could not be asked to discuss a motion affecting the existence of the Government at the only hours which were available for business promoted by private members. The Government refused to find time for the purpose. 'For five years,' said Mr. Fawcett, 'I have been trying to obtain a decision on this question. Twice my proposals have been talked out, twice they have been counted out, twice they have been got rid of by threats of ministerial resignation. Numberless have been the speeches from the Treasury Bench; but it is absolutely impossible to extract from them anything like a clear declaration as to the meaning of Ministers upon the subject.'

The Government proposals of 1873.

The somewhat ungenerous manner in which Mr. Fawcett had been thus treated compelled the Ministers in 1873 to redeem the original pledge and to deal with the question themselves; and accordingly, almost in the commencement of the session, Mr. Gladstone rose to explain the manner in which he proposed to treat a subject which he declared at the outset of his remarks to be 'vital to the honour and existence of the Government.'[4] Perhaps, in his long and remarkable career, he never displayed more clearly his superiority as an orator. Lord Edmond Fitzmaurice

[1] *Hansard*, vol. ccx. pp. 1328, 1329. [2] *Ibid.*, pp. 1685, 1827. [3] *Ibid.*, p. 1818. [4] *Ibid.*, vol. ccxiv. p. 378.

said that 'it was no exaggeration of language to say that the speech threw the House and the country into a mesmeric trance'[1] and Mr. Fawcett himself declared that the House was 'so charmed, so delighted by the eloquence of the Prime Minister, that if a division had been taken at once no one could doubt that there would have been almost a unanimous opinion in favour of the second reading.' The scheme proposed to constitute a great university for the whole of Ireland. Trinity College, the Queen's Colleges—with the exception of Galway College, which was to be abolished—and the so-called Roman Catholic University were to form parts of the new university, which was also to have power to affiliate any new colleges which might afterwards be formed. The new university was to be amply endowed by contributions from Trinity College, from the Consolidated Fund, and from the Church surplus. The university course was not to comprise theology, moral philosophy, or modern history; and, by a still more singular arrangement, any professor who by speaking or writing wilfully gave offence to the religious convictions of any student was to be liable to suspension or removal from his office.[2]

It is a striking testimony to the great speech that it held the audience spell-bound. Even Mr. Horsman, who a little later on became one of the bitterest opponents of the Bill, wrote a letter to the 'Times,' in which he said:

'Mr. Gladstone has introduced a measure of university education that does him great honour, and when perfected by amendment in committee, and it

[1] *Hansard*, vol. ccxiv. p. 1202.

[2] The speech is in *Hansard*, vol. ccxiv. p. 378.

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takes its place in the Statute Book, it will be a noble crowning to the work of the present Parliament.'

For forty-eight hours—such is the magic of eloquence—a single speech had apparently redeemed the situation and restored the reputation of a discredited Ministry.

The Irish University Bill.

The publication of the Bill itself, however, and reflection upon it, brought other counsels. The best Liberal minds resented the notion that, in the name of reform, history and philosophy should be excluded from a university curriculum. It was monstrous that the efficiency of a great institution like Trinity should be impaired by curtailing its course and curbing its professors. The Liberal party had shown that it was ready to go far to satisfy the just claims of Rome. But the end—so it was argued—was to be obtained by levelling down and not by levelling up: by the abolition of the privileges of other Churches, and not by the creation of fresh privileges for Rome. Even the minor proposal for the abolition of Galway College indicated the spirit in which the Ministers had approached their task. For the sake of conciliating a Catholic university, which was advancing an inadmissible pretension, and which objected even to the existence of a godless college, they were destroying a foundation which had done useful if modest work. Mr. Gladstone had, indeed, calculated that every pupil educated at Galway was costing the public 77*l.*, and every graduate in arts 231*l.* a year.[1] But it was replied with some force[2]

[1] *Hansard*, vol. ccxiv. p. 379.

[2] *Ibid.*, p. 1244. The calculation was that Galway received seventy-five students for 10,000*l.* a year; Magdalen matriculated twenty-five students with 40,000*l.* a year. The revenues of Magdalen were, therefore, to the revenues of Galway as 4 is to 1; the students as 1 is to 3.

that the revenue of Magdalen College, Oxford, amounted to 40,000*l.* a year; that only 25 students had matriculated at that college in the year; and that the arithmetical argument for abolishing Magdalen was thus twelve times as strong as it was in favour of abolishing Galway. The whole Protestant party in Ireland, therefore, whether Episcopalians, Presbyterians, or Wesleyans, were opposed to the Bill.

Opposition of the Irish Roman Catholic Bishops.

The measure, however, had been introduced to remove a Roman Catholic grievance. The strength and earnestness of Mr. Gladstone's own religious conviction enabled him to appreciate and sympathise with the feelings of devout Roman Catholics, and he had accordingly gone far, as he had already done much, to satisfy the aspirations of Rome. But, on the Friday which preceded the second reading of the Bill, the Roman Catholic Primate, at a meeting in Dublin, declined to accept it.[1] This declaration settled the fate of the measure. Something could be said for it as long as there was any chance of its acceptance by the Irish Roman Catholics. But when the hierarchy of the Roman Church in Ireland refused to have anything to do with a university which opened its doors to men of all creeds, and to men of no creed, the little that could be said in its favour could no longer be urged in its support. It was not certainly worth while to abolish the Queen's University, which had undoubtedly done some good work, and to weaken Trinity College, which had done still better work, when the Roman Catholics themselves were ranged against the measure.

Thus, when the Bill was brought up for second reading on the 3rd of March, a chorus of disapprobation

[1] *Ann. Reg.* 1873, Hist. p. 23.

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was raised against its provisions. Mr. Fawcett declared that, if the gagging clauses were applied to Cambridge, he should feel that he could not conscientiously hold his professorship of political economy for a single hour.[1] Mr. Vernon Harcourt,[2] who professed his readiness to vote for the second reading of the Bill, declared that these clauses 'were the anathema of the Vatican against modern civilisation; they breathed the spirit of the Index; they comprehended the whole Dunciad of the Syllabus. The House would never accept them; it was hardly worth while to argue against them—it was twice to slay the slain.' When such language could come from one ready to support—and who did support—the second reading, the case of the Government was obviously in a bad way. The language of some members of the Cabinet showed that they were becoming conscious of their own difficulty. For, while Mr. Gladstone, in introducing the measure, had avowed that the proposals were vital to the honour and existence of the Government, Mr. Cardwell, in closing the third night's debate on the second reading, asked the House to pass the second reading and then proceed in committee to consider the details of the Bill, to expunge those things that were objectionable, and to adhere to those that would stand the test of argument.[3] It was difficult to see what would remain of the measure if all those things which had failed to stand the test of argument were expunged from it. Mr. Bernal

The Bill in the House of Commons.

[1] *Hansard*, vol. ccxiv. p. 1250. Lord Hartington did not improve matters by replying that 'he doubted whether Mr. Fawcett would be the most fitting professor to lecture on disputed subjects to a mixed audience composed of Protestants and Roman Catholics.' *Ibid.*, p. 1256.

[2] *Ibid.*, p. 1630.

[3] *Ibid.*, p. 1711.

Osborne implored Mr. Gladstone to withdraw the Bill, as the Lord Chamberlain had withdrawn his licence for 'The Happy Land' from the Court Theatre.[1]

After four nights' debate the House divided on the second reading. The Conservative party voted against it. The Irish Roman Catholics and a few Independent Liberals, like Mr. Fawcett, Mr. Bouverie, and Mr. Horsman, gave their support to the Conservatives in the division lobby, and the Bill was thrown out by 287 votes to 284.[2]

The Bill rejected.

The rejection of the measure was due, in one sense, to the ordinary tactics of party warfare. The Conservatives, under Mr. Disraeli, took advantage of Irish feeling and Liberal discontent to inflict a crushing blow on Mr. Gladstone. But, in a deeper and fuller sense, it was attributable to the eternal difficulty which lies at the root of the government of Ireland by Great Britain. Great Britain believes, and honestly believes, that she is desirous of using her supremacy to promote the welfare of Ireland, and to give effect in her administration to Irish ideas. How impossible

Reflections suggested by this failure.

[1] *Hansard*, vol. ccxiv. p. 1701. On the 5th of March, the day on which the University Bill was brought up for second reading, a burlesque on Mr. Gilbert's fairy play 'The Wicked World' was produced at the Court Theatre. The leading members of the Ministry, Mr. Gladstone, Mr. Lowe, and Mr. Ayrton, were caricatured in this play as the Right Hon. Mr. Ethais, the Right Hon. Mr. Phyllon, and the Right Hon. Mr. Luton. Society in London thronged to a performance which enabled them to laugh for a couple of hours at a Prime Minister who was fast falling into discredit, and at two of his colleagues who had long lost their popularity. The Lord Chamberlain, alleging that the manuscript of the play had been altered after he had sanctioned the production, withdrew the licence, and the licence was only regranted when certain alterations were made in it. But the piece had already done its work. The Lord Chamberlain's action probably proved an additional advertisement to it, and even the serious men, who were debating in Parliament the provisions of the Bill, found time to go to Chelsea to laugh at 'The Happy Land.' *Ann. Reg.*, 1873, Chron. p. 29.

[2] *Hansard*, vol. ccxiv. p. 1863.

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it is for her to do this, such a question as the higher education of the Irish proves. Three persons out of every four in Ireland would solve the problem by instituting a new university, endowed out of public funds and placed under exclusively Roman Catholic management. Three people out of every four in Great Britain would turn out any Ministry which proposed to endow a Roman Catholic institution. There is no possible compromise between these opposite views. The conscience of the Nonconformists in England and of the Presbyterians in Scotland is opposed to the only remedy which the conscience of the Roman Catholic in Ireland[1] will accept.

Minsters resign.

Two days after the great division the Cabinet decided on tendering the resignation of their offices to the Queen, and Her Majesty at once sent for Mr. Disraeli. But that leader was both too patient and too astute to gather the fruit before it was actually ready to fall. He told the Queen that he believed that he 'should have no material difficulty in forming an Administration which could carry on the affairs of the country with efficiency,' but that he could not undertake to conduct her Majesty's affairs in the existing House of Commons.[2] The natural criticism on the reply was that Mr. Disraeli should ask her Majesty's sanction to a dissolution of Parliament. But Mr. Disraeli knew that if he commenced his Ministry by a dissolution the votes of the electors would naturally be determined by their opinion of Mr. Disraeli himself and his colleagues, while, if he forced

Refusal of Mr. Disraeli to take office.

[1] It is worth noting that while Cardinal Cullen, the head of the Roman Church in Ireland, was opposed to the Bill, Cardinal Manning, the head of the Roman Church in England, was in favour of it. Morley, *Life of Gladstone*, vol. ii. p. 440.

[2] *Hansard*, vol. ccxiv. p. 1930.

Mr. Gladstone to dissolve, the issue before the country would naturally turn on the conduct of the late Government. He could hardly, indeed, avow in public the true reason for his decision. He declared, in the House of Commons, that 'a dissolution of Parliament is a very different instrument in different hands. It is an instrument of which a Minister in office can avail himself with a facility of which a Minister only going to accede to office is deprived.'[1] And he proceeded to explain at considerable length why a Minister acceding to office during a Parliamentary session could not dissolve. But this explanation need not detain the most laborious of students. Mr. Disraeli understood that 'his strength was to sit still,' and leave 'the extinct volcanoes' on the opposite benches to smoulder harmlessly away; and he declined either by accepting office or by dissolving Parliament to afford his opponents an opportunity of infusing new vigour into their dying flames.

Mr. Gladstone resumes office.

Mr. Gladstone and his colleagues were therefore almost compelled to resume office; they could, in no sense whatever, be said to return to power. The great Government which had done so much had exhausted its energies. Its admirers declared that it had done such work as had not been wrought in England for forty years; its opponents declared that it had 'harassed every trade, worried every profession, and assailed and menaced every class, institution, and species of property in the country.'[2] Its power, for good or for evil, was at any rate gone. It had no longer the motive force which is necessary for the accomplishment of any great work.

Weakness of the Ministry.

[1] *Hansard*, vol. ccxiv. p. 1932.

[2] See Mr. Disraeli's famous letter to Lord Grey de Wilton on the Bath election, reprinted in *Ann. Reg.*, 1873, Hist. p. 87.

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The defeat of Mr. Gladstone's ambitious measure paved the way for the success of Mr. Fawcett's modest proposal; and he had the satisfaction of carrying through the House of Commons a Bill, which subsequently received the sanction of the Lords, for the abolition of all tests at Dublin; the Government accepting and even facilitating the progress of the measure on condition that it was confined to that single object; and Lord Cairns, on the part of the Opposition, himself taking charge of it in the House of Lords. Few private members had ever won a more genuine triumph. He had done more to defeat Mr. Gladstone's proposal than any one, and he had forced the Government to accept from him a measure which they had again and again resisted. He had, moreover, given a stimulus to Trinity College and to mixed education by enabling the university to open its prizes to students of every denomination. On the other hand he had perpetuated the grievance of which the Irish Roman Catholics had previously complained, that no means were available for the higher education of those members of that Church who objected to the association of their sons with men of another faith. He had forced on Ireland an arrangement which every Liberal in Great Britain approved, but which the majority of the Irish people disliked and condemned.[1]

Mr. Fawcett carries a Bill for the abolition of tests.

While this measure was still before the House of Commons, Mr. Lowe brought forward the Budget of the year. His statement to some extent indicated the difficulties into which the Government had fallen. His speech was probably the shortest which any Chancellor of the Exchequer had ever made, and his

The Budget of 1873.

[1] For this Bill, *Hansard*, vol. ccxv. pp. 505, 727, 1849.

proposals were carefully framed to conciliate men of all parties. He had the advantage of having a tale of great prosperity to tell. The revenue had increased by leaps and bounds. The estimated revenue for 1873–4 amounted to no less than 76,617,000*l.*,[1] the estimated expenditure to only 71,871,100*l.*, the estimated surplus to no less than 4,746,000*l.* One-third of the surplus Mr. Lowe proposed to devote towards the extinction of one moiety of the Alabama Indemnity.[2] Another third he employed in reducing the sugar duties to one half their existing amount. The remaining third, or 1,425,000*l.*, he applied to a reduction of the income-tax to 3*d.*, the lowest point at which it had ever stood, the lowest point which it was destined to reach in the nineteenth century.[3]

Criticisms of Mr. W. H. Smith.

The scheme, simple as it was, did not pass without some criticism. The Conservative party put up the ablest of its unofficial members, Mr. W. H. Smith, who, in the preceding election, had defeated Mr. Stuart Mill at Westminster, to argue that no further reduction should be made in indirect taxation

[1] *Hansard*, vol. ccxv. p. 662.

[2] 1,600,000*l.* Mr. Lowe took power to raise the other 1,600,000*l.* by Exchequer Bills or Exchequer Bonds in case the natural increase of the revenue should be inadequate to cover it. *Hansard*, vol. ccxv. p. 664.

[3] The Budget figures were as follows:—

Revenue.		*Expenditure.*	
Customs	£21,033,000	Army	£15,258,400
Excise	25,747,000	Navy	9,873,000
Stamps	10,050,000	Civil Service	11,067,800
Assessed Taxes	2,350,000	Revenue Departments	7,351,900
Income Tax	7,000,000	Debt	26,750,000
Post Office	5,012,000	Consolidated Fund	1,570,000
Telegraphs	1,220,000		
Crown Lands	375,000		
Miscellaneous	3,830,000		
	£76,617,000		£71,871,100

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till the House was in possession of the views of the Government on 'the adjustment of direct taxation, both imperial and local.'[1] The motion was ingeniously designed to embarrass the Government. In the previous year Sir Massey Lopes had actually carried his motion for the relief of the ratepayers by a majority of 100 against the Ministry,[2] and it was natural to argue that the House had affirmed its desire to legislate with this object. On the other hand the Opposition was, to some extent, at a disadvantage from the preference which they were displaying for indirect over direct taxation. There was nothing logical in saying that the rates should be relieved at the cost of consumers of sugar, and not at the expense of the payers of income-tax. Such an arrangement would have the effect of throwing an unfair share of the national burden on the poor, for while only rich men, or comparatively rich men, paid income-tax, the duty on sugar necessarily fell on the great masses of the people. Mr. Lowe argued that, as the Government had framed its Budget 'on the basis of dealing impartially with the claims of direct and indirect taxation,' the success of Mr. Smith's motion would destroy its principle. The Government could therefore only regard it as a vote of censure.[3] The House of Commons, which had just passed through one Ministerial crisis in March, was not prepared to provoke another in April, and Mr. Smith's motion was accordingly rejected.[4]

Mr. Lowe's reply.

In resisting Mr. Smith's attack Mr. Lowe had incidentally met the argument that the Budget

[1] *Hansard*, vol. ccxv. p. 1041.
[2] *Ibid.*, vol. ccx. pp. 1331–1404.
[3] *Ibid.*, vol. ccxv. pp. 1046–1047.
[4] *Ibid.*, p. 1391.

virtually tied the hands of his successor, by the retort that he would be very sorry to do that, for he intended to be his own successor.[1] Yet the events had already occurred which were to lead to his removal from office, and incidentally to the final fall of Mr. Gladstone's Administration.

It has already been stated in this work that Mr. Ward Hunt proposed in 1868,[2] and Lord Hartington carried in 1869, a measure which ultimately led to the acquisition of the whole telegraphic business of the country by the State. Parliament placed a large sum of money at the disposal of the Government for this acquisition; but in March 1871 it was discovered that the money so appropriated was insufficient for the purpose, and Parliament authorised an additional loan of 1,000,000*l.*, raising the whole sum authorised to 8,000,000*l.* But the 8,000,000*l.*, like the 7,000,000*l.*, proved inadequate for the purpose. In March 1872 Mr. Scudamore, the distinguished Civil servant to whom the purchase had been entrusted, admitted that 8,200,000*l.* had been already spent, and a still further expenditure was necessary. Finally, in 1873, it was discovered that the estimates which Parliament had sanctioned had been exceeded by more than 800,000*l.*[3]

Unauthorised expenditure on State purchase of telegraphs.

In ordinary circumstances a public department would have found it impossible to procure the money for the unauthorised expenditure. The money which a department raises is paid into the Exchequer: it can be only drawn from the Exchequer on the certificate of an independent authority; and the head of a public department, therefore, cannot apply money

[1] *Hansard*, vol. ccxv. p. 1044.
[2] Vol. ii. p. 293.
[3] *Hansard*, vol. ccxvii. p. 1190.

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to an unauthorised object. But the Post Office is not an ordinary department. It is a great and profitable commercial concern. It receives more money than it expends; and it necessarily retains in its own control a certain portion of its receipts. If inquiry were made, for example, into the rules which govern a humble village post-office, it would be found that the postmaster is required to remit all his receipts to his superiors every day, reserving a modest sum of say 10*l.* to meet any demand which might be made on him for cashing a postal order. Exactly the same principle applies to the Postmaster-General as to the humble village post-office. The Postmaster-General is bound to pay into the Exchequer account of the Bank of England the whole of his receipts, reserving only a comparatively modest sum for the expenses which he has daily to discharge. It is the duty of the Treasury, assisted by the Comptroller and Auditor-General, to see that the sum reserved is not too large. The Treasury is the authority which controls the finances of every department. The Auditor-General is the watch-dog whose function it is to call attention to irregularity.

Finance of the Post Office.

But the Post Office is not merely a great commercial department. It conducts the largest banking business in the country. It receives daily large sums of money from the depositors in its savings banks. It pays out daily large sums of money to these depositors. The difference between the sum which it so receives and the sum which it pays is represented annually by millions; its turnover is represented by hundreds of millions. It is the duty of the Postmaster-General as the head of the Post Office Savings Bank to deal with its receipts on the same principle

Its banking business

as that which is applied to the other receipts of his office. After leaving a comparatively modest balance he pays over the sum which represents the excess of his receipts over his payments to the National Debt Commissioners, who periodically invest the amount either in Consols or some other security.

Mr. Scudamore utilises his balances for unauthorised expenditure.

Mr. Scudamore, on finding that the cost of purchasing the telegraphs was largely exceeding the sum which Parliament had authorised, hit on the expedient of providing the residue out of the balances at the disposal of the Postmaster-General. He kept back a portion of the money which ought to have been paid over to the Exchequer, and he kept back a portion of the Savings Banks deposits, which ought to have been transferred to the National Debt Commissioners. Mr. Monsell, who filled the office of Postmaster-General, was not informed by Mr. Scudamore of what he was doing. Mr. Lowe was acquainted by Mr. Scudamore with what had occurred, but had no notion that the irregularity reached the extent to which it was carried. An able Civil servant, careless of form and regulation, had been suffered to misappropriate large sums of public money, and all that his own chief could say was that he was himself ignorant of the misappropriation; all that the Chancellor of the Exchequer could say was that he was not aware of the extent to which the malpractices were carried on.[1]

Parliamentary criticism.

Attention was, of course, directed to the scandal. Mr. Cross, speaking for the Opposition, asked the House to affirm that the control of the Treasury over the Post Office as a revenue department, having proved inadequate for the earlier detection and rectification of such irregularities, requires to be more watchfully

[1] *Hansard*, vol. ccxvii. pp. 1213, 1219; *Ann. Reg.*, 1873, Hist., p. 80.

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exercised. Sir John Lubbock wished it to declare that it is the duty of the Government to take effective measures to prevent the recurrence of such a proceeding.[1] There was not any very great difference between the two resolutions. But the Government thought it consistent with its dignity to accept a censure coming from one of its own supporters, to which it considered that it could not submit when the censure emanated from the other side of the House. Sir John Lubbock's amendment was accordingly substituted for Mr. Cross's motion. The temper of the House would not have been satisfied with a milder verdict, even if the Prime Minister himself would have consented to it. For, though Mr. Gladstone was officially compelled to reply to the attacks which the incident directed against the Ministry, neither Mr. Cross nor Sir John Lubbock condemned it more severely than himself. 'There probably have been times,' so he wrote to the Queen, 'when the three gentlemen who in their several positions have been chiefly to blame would have been summarily dismissed.'[2] He told Lord Russell at the same time that 'the recent exposures have been gall and wormwood to me from day to day.'[2]

Mr. Gladstone admits the scandal and accepts Sir John Lubbock's resolution.

It so happened that, while a grave scandal was seriously threatening the official existence of two members of the Ministry, another member of the Government showed a want of tact and an indifference to discipline which was almost indecent. Mr. Ayrton, the Commissioner of Works, was a man of stern views :

[1] *Hansard*, vol. clxvii. p. 1205.

[2] Morley's *Life of Gladstone*, vol. ii. pp. 460, 461. Mr. Morley oddly enough implies that the three persons who in other times would have been summarily dismissed were Mr. Lowe, Mr. Monsell, and Mr. Ayrton. They were obviously Mr. Lowe, Mr. Monsell, and Mr. Scudamore. Mr. Ayrton had nothing to do with the Post Office scandal, but was mixed up with another matter related in the succeeding paragraph in the text.

he had ideas of economy which Mr. Lowe himself might have envied. But he displayed an unconcern as to public opinion which made him the most unpopular member of the Government, and which gained him the distinction of being caricatured with Mr. Gladstone and Mr. Lowe in 'The Happy Land.' The Government, apparently without consulting Mr. Ayrton, decided on asking Parliament to vote a sum of 8500*l.* for embanking some land adjoining the Victoria Tower, which had been acquired to protect the Palace of Westminster from the risk of fire. It was Mr. Ayrton's duty, as First Commissioner of Works, to propose the estimate. He took occasion in the debate in the House to disclaim all responsibility for it. He added that he could not tell the Committee what the nature or the extent of the expenditure was to be, because he was not in possession of information on the subject.[1]

Mr. Ayrton disclaims responsibility for an estimate which he proposes as First Commissioner of Works.

On the report of the vote, two days afterwards, attention was naturally drawn to this extraordinary statement, and Mr. Ayrton did not improve his position by repeating his view of the case. He admitted that an Act had been passed in 1867 for reclaiming a large space of ground and for embanking that ground, but he contended that more land was thus proposed to be reclaimed than was necessary for the protection of the Houses of Parliament from fire; that Parliament in passing the Bill was really embarking on a metropolitan improvement; that metropolitan improvements ought to be undertaken by the Metropolitan Board of Works at the expense of the ratepayers; and that, holding that opinion, he could not be responsible for the estimate, which had

[1] *Hansard*, vol. ccxvii. p. 1123.

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been forced on him by the Treasury. Mr. Gladstone rose immediately Mr. Ayrton sat down, and laid down the doctrine of Ministerial responsibility in a manner which commanded the assent of the House. The head of a department was responsible for that department, but he must act as a member of the Government, and be subject to the Government as a whole. If Ministers 'are men of sense, as they sometimes are, they are occasionally obliged to forgo their individual opinions on particular questions for the sake of avoiding greater evils, or for realising less benefit than they personally deserve, or think attainable. I apprehend that happens to all members of the Government, and therefore it must happen, among others, to the First Commissioner of Works.'[1] The clear manner in which Mr. Gladstone laid down the true doctrine of Ministerial responsibility satisfied the House. But the whole incident tended further to discredit an already discredited Government.

Mr. Gladstone on Ministerial responsibility.

A house divided against itself cannot stand, and the internal dissensions of the Ministry made it impossible that it could endure. Mr. Lowe was in open opposition to Mr. Ayrton and to Mr. Baxter, the Secretary to the Treasury; and Mr. Monsell had admitted that he had no knowledge of a grave misappropriation of public moneys under his own control. Very early in the recess the public learned that Mr. Gladstone had decided on the perilous course of reconstructing his Ministry. The operation was facilitated by the temporary withdrawal from public life of Lord Ripon, who since the formation of

Reconstruction of the Ministry.

[1] *Hansard*, vol. ccxvii. pp. 1260, 1268. I have not thought it necessary to allude to another matter—the Zanzibar meat contract—in which Mr. Lowe narrowly escaped from a damaging defeat. See *Ann. Reg.*, 1873, Hist., p. 79.

the Ministry had held the Presidency of the Council. To Lord Ripon's post Mr. Gladstone promoted Mr. Bruce, who was made Lord Aberdare; and room was thus made for the transfer of Mr. Lowe, who had become impossible at the Treasury, to the Home Office. Mr. Gladstone in the first instance contemplated the transfer of Mr. Childers from the Duchy of Lancaster to the Treasury, but he was dissuaded by Mr. Lowe from carrying out this intention; and Mr. Childers thereupon resigned his office to make room for Mr. Bright.[1]

Outside the Cabinet the changes were equally startling. Mr. Monsell, who could not remain any longer at the Post Office, was extinguished by a coronet and made Lord Emly; Mr. Ayrton, who had become equally impossible at the Office of Works, was made Judge Advocate-General. Mr. Arthur Peel succeeded Mr. Baxter as Secretary to the Treasury. Two vacancies on the Bench, which occurred at the same time, led to other changes. The Attorney-General, Sir John Coleridge, became Lord Coleridge and Chief Justice of the Common Pleas, and was succeeded by Mr. Henry James; the Solicitor-General, Sir George Jessel, was made Master of the Rolls, and was succeeded by Mr. Vernon Harcourt.

New appointments.

It was noticed at the time that the effect of these various changes was to transfer to the Treasury bench many inconvenient critics of the Government. A member of the Cabinet, indeed, wrote 'We have effectively extracted the brains from below the gangway.'[2] One important office still remained to be filled up. Mr. Gladstone himself, apparently, desired

[1] *Life of H. C. E. Childers*, vol. i. p. 219.

[2] Morley's *Life of Gladstone*, vol. ii. p. 463, note.

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to transfer the seals of the Exchequer to Mr. Childers or Mr. Goschen[1]; but, in deference to the wishes of others, he decided on taking them himself. The heavy strain of the double office had not been borne by any one man for more than forty years, and it had never been encountered by anyone who had simultaneously to carry the weight of sixty-four years.

Mr. Gladstone takes the Exchequer.

In accepting the office Mr. Gladstone inadvertently raised a constitutional question of the gravest difficulty. An Act of Anne made the election of any member of the House of Commons void on his acceptance of any office of profit from the Crown. The Reform Act of 1867, on the contrary, enumerated certain high political offices, and enacted that when a person had been returned to Parliament after the acceptance of any one of those offices, his subsequent acceptance from the Crown of any other office or offices in the same schedule, in lieu of and in immediate succession the one to the other, should not vacate his seat.[2] Mr. Gladstone, however, had accepted the Chancellorship of the Exchequer not in lieu of, or in succession to, but in addition to, his original office of First Lord of the Treasury. His case, therefore, though probably within the spirit, was possibly not within the letter of the Act of 1867. If, however, the Act of 1867 did not provide for the case, the question arose whether the seat was vacated under the Act of Anne. The closest precedent was in 1809, when Mr. Perceval, who was already Chancellor of the Exchequer, had become First Lord of the Treasury: on that occasion it was held that as

Constitutional difficulties involved in his appointment.

[1] Cf. *Life of Childers*, and Morley's *Life of Gladstone*.

[2] 6 Anne, cap. 41, sect. 25; 30 & 31 Vict. cap. 102, sec. 52. Lord Selborne's *Memorials Personal and Political*, vol. i. p. 327.

Mr. Perceval was already a Commissioner of the Treasury, his promotion to the first place on the Commission, though attended with an increase of profit, did not necessitate a fresh election. Mr. Gladstone's case was, in one sense, the reverse of Mr. Perceval's. Instead of accepting the first place on the Treasury Commission in addition to the Chancellorship of the Exchequer, he took the Chancellorship of the Exchequer in addition to the first place on the Commission. And the Chancellorship of the Exchequer, even if it conferred no pay, had certain patronage attached to it which made it, as some people thought, an office of profit.

That the question was not free from doubt may be inferred from the contrary opinions of legal authorities. Lord Selborne, the Lord Chancellor, thought that the seat was vacated; the Law Officers, Sir George Jessel and Sir John Coleridge, were of a contrary opinion. The Lord Advocate went with the Chancellor, and Baron Bramwell went with the Law Officers. And on the promotion of Sir George Jessel and Sir John Coleridge, their successors, Sir Henry James and Sir William Harcourt, did not venture 'beyond the singularly shy proposition that strong arguments might be used both in favour of and against the view that the seat was vacated.' Lord Halifax suggested, as a possible solution of the difficulty, that the Speaker, on the reassembling of Parliament, should report the circumstance to the House and call upon Mr. Gladstone to explain why he had not given the usual notice of the acceptance of office:[1] and that

Contrary opinions of the legal authorities.

[1] When a member accepts office two members of the House are required to send a certificate reporting the fact to the Speaker, who, after receiving also a notification from the member accepting, issues his writ. In Mr. Gladstone's case two members of the Opposi-

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Mr. Gladstone should then state the facts, place himself in the hands of the House, and withdraw.[1] But there was a serious objection to this proposal. The House of Commons would almost certainly have appointed a committee to consider the matter; and days, to put it at the lowest, must have elapsed before the committee could report, and the House accept or reject the report of the committee. If the committee reported in Mr. Gladstone's favour, the loss of days would be the only resulting evil. But if it happened to order a fresh election, much greater inconvenience would ensue. For the further delay inseparable from a new contest would follow; and possibly, or, as many people thought, probably, Mr. Gladstone would suffer defeat.[2]

In any case, therefore, Lord Halifax's advice involved the absence of Mr. Gladstone from the House for days, while it might possibly result in his absence from it for weeks. But the Ministry could not afford to spare Mr. Gladstone for a single hour from the House of Commons. Mr. Cardwell was, no doubt, the best of War Ministers; Mr. Goschen was doing good work at the Admiralty. But neither of them had the qualities which made Mr. Gladstone a leader of men. Of the other members of the Cabinet in the House of Commons, Lord Hartington was mainly occupied with the affairs of Ireland; Mr. Forster had alienated the Nonconformists; Mr. Lowe had offended almost everybody; and Mr. Bright had not the health, Mr. Chichester Fortescue and Mr.

tion, 'keen-nosed sleuth-hounds' Mr. Morley calls them, sent the usual certificate to the Speaker, but the Speaker declined to act on it because he had received no notification from Mr. Gladstone himself. Morley's *Life of Gladstone*, vol. ii. p. 470.

[1] *Ibid.*, p. 471.

[2] 'Everybody knew that in case of an election Mr. Gladstone's seat was not safe.' *Ibid.*, p. 470.

Stansfeld had not the position which would have qualified them to lead a great party. Discredited as the Ministry was, its sole hope lay in Mr. Gladstone. It was possible, it was even probable, that he might be unable to save the Government, but it was certain that, if Mr. Gladstone could not save it, no one else could.

And there was one way—so Mr. Gladstone thought—in which he could rally his discontented and dejected supporters. The right wing of his followers might think that the pace of the last few years had been too fast; the left wing might complain that in matters affecting religion the pace had not been fast enough, while both those who approved and those who disapproved the domestic policy of the Government disliked the manner in which Lord Granville had dealt with Russia and the United States. But in finance Mr. Gladstone was supreme. Men still spoke of his Budgets of 1853 and 1860 with the fervour with which they praised Sir Robert Peel's great Budgets of 1842 and 1845; and in taking the Seals of the Exchequer Mr. Gladstone apparently made it possible to achieve a new success in the field in which he stood far above all competitors. He himself had hardly resumed his old duties as Chancellor of the Exchequer before he was busily preparing the outline of a new Budget. But financial success depends on economical administration, and for the great remissions of taxation which Mr. Gladstone was contemplating, a large surplus—a surplus of eight millions—was in his judgment necessary.[1] Such a surplus, however, could not be obtained either by the

Mr. Gladstone's financial projects.

[1] Mr. Gladstone wrote in his diary on the 29th of September, 1873, 'Wrote a rough mem. and computation for the Budget of

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natural growth of an elastic revenue or by any readjustment of taxation. It could not be provided except by a considerable reduction of expenditure. If such a reduction could be effected Mr. Gladstone considered that by raising the spirit duties and readjusting the death duties he could sweep away the income tax and repeal the remaining duty on sugar. He unfolded this programme to Mr. Cardwell in August 1873,[1] and he does not seem to have received any intimation in reply that such reductions were impracticable. When, however, the Estimates were finally prepared they showed an increase instead of a decrease of the expenditure,[2] and Mr. Gladstone was unable to induce either Mr. Goschen, who was responsible for the navy, or Mr. Cardwell, who was responsible for the army, to give way.[3] Mr. Gladstone, therefore, found that he was engaged 'in active controversy with both the great spending departments,

Mr. Goschen and Mr. Cardwell refuse to reduce navy and army estimates.

next year—I want eight millions to handle.' Morley's *Life of Gladstone*, vol. ii. p. 474.

[1] Morley's *Life of Gladstone*, vol. ii. p. 478. It is remarkable that this, Mr. Gladstone's original proposal, was perfectly practicable. The income-tax in 1874–5 was estimated by Sir Stafford Northcote to produce 5,550,000*l.* But only 4,620,000*l.* of this amount would have fallen on the financial year. The sugar duties were placed by Sir Stafford Northcote at 2,000,000*l.*; 6,620,000*l.* would therefore have been adequate to sweep away the income-tax and sugar duties, and, as Sir Stafford Northcote had a surplus of 6,000,000*l.*, only 620,000*l.* additional was required from readjusted taxation or retrenchment. *Hansard*, vol. ccxviii. pp. 645, 662, 668.

[2] The Army and Navy Estimates presented by Mr. Disraeli's Government, and which were presumably prepared by Mr. Cardwell and Mr. Goschen, amounted respectively to 14,485,000*l.* and to 10,180,000*l.* against an expenditure of 14,416,000*l.* and 10,005,000*l.* of the financial year 1873–4. *Ibid.*, p. 638.

[3] Morley's *Life of Gladstone*, vol. ii. p. 483. Mr. Gladstone thought that he had asked Mr. Cardwell to consent to a reduction of some 200,000*l.* But it seems from a passage in a letter which he wrote to Lord Granville on the 8th of January, 1874, that he wanted to get 'from three quarters of a million upwards towards a million off the Naval and Military Estimates jointly.' *Ibid.*, p. 482.

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and with little chance of prevailing.'[1] The great stroke of financial policy which he was contemplating involved, so he thought, a reduction of 750,000*l.* to 1,000,000*l.* in the military and naval expenditure of the country, and the chiefs of the army and the navy were insisting on rather higher instead of very much lower estimates.

In other circumstances Mr. Gladstone might have insisted on his colleagues accepting his own view. A Prime Minister must necessarily control the policy of the Cabinet; and when a Prime Minister stands above his colleagues as Mr. Gladstone stood in 1874, he has an additional right to insist that his own opinions should prevail. But Mr. Gladstone in 1874 was not in a position to risk a crisis in the Cabinet. After the radical changes in the composition of the Ministry which had been made at the conclusion of the previous session he could not spare the services of Mr. Cardwell and Mr. Goschen. Instead, therefore, of overruling their views he yielded, at any rate for the moment.

Mr. Gladstone resolves on a Dissolution.

But the concession suggested to him a new expedient. The Parliament of 1868 had already run for more than five years. In ordinary usage it was unlikely to endure for more than another session; it had virtually fulfilled the functions which it had been elected to discharge; and, like all Parliaments which approach old age, its members were displaying an independence inconsistent with their allegiance to their old leaders. It occurred to Mr. Gladstone that in these circumstances he might terminate the existence of a Parliament whose life had been already prolonged, and appeal to the constituencies

[1] Morley's *Life of Gladstone*, vol. ii. p. 484.

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on the large measure of financial reform which he was anxious to produce. He was strengthened in his decision by Mr. Cardwell's assurance that, if the constituencies pronounced in favour of Mr. Gladstone's programme, he would feel justified in withdrawing his opposition to a reduction of the Army Estimates.[1]

Objections to this course.

The course on which Mr. Gladstone thus decided was, to say the least, unusual. Parliaments have been dissolved because Ministers have suffered defeats, or found themselves with inadequate majorities in the House of Commons to carry on the business of the country. But with the solitary exception of 1874 no Parliament has ever been dissolved because a radical difference on a question of administration had arisen in the Cabinet. Dissolution was not the usual, or constitutional, remedy for such a difficulty. But Mr. Gladstone was one of those men who have the unfortunate capacity of convincing themselves that the course which they make up their minds to take is the right or only course to follow; and there is no doubt that he convinced himself that, in advising a dissolution, he was acting in the manner which his duty required. Yet it is difficult to believe that, in arriving at the conclusion, he was not unconsciously influenced by the embarrassment of his own position. The question whether he had vacated, or not vacated, his seat by accepting the Chancellorship of the Exchequer could not be evaded if Parliament was suffered to assemble; it could be plainly evaded if a dissolution took place. No doubt Mr. Gladstone honestly believed that the embarrassment did not influence his decision. But men are commonly and insensibly influenced by considerations

[1] Morley's *Life of Gladstone*, vol. ii. p. 483.

which they hardly recognise themselves; and Lord Selborne was probably right in concluding that, as 'a dissolution was the only escape,' the difficulty respecting the seat was the determining cause of the dissolution of 1874.[1]

The Cabinet acquiesce.

The Cabinet readily assented to the proposal. For some months past the casual elections which had taken place in the country had steadily and almost uniformly resulted in the defeat of the Ministerial candidate;[2] and, though Ministers are in the habit of asserting that bye-elections are no sure test of public opinion, there is no doubt that they raised the presumption that the Government was losing, if it had not lost, the confidence of the country. Men of honour, like Lord Aberdeen, who disliked the notion of clinging to office when the country was pronouncing against the continuance of the Ministry, rejoiced at a resolution[3] which gave the country an opportunity of deciding once and for all whether it desired to retain Mr. Gladstone's services. The reason which influenced the Cabinet was thus different from those by which Mr. Gladstone was actuated. He, in some difficulty about his seat, and unable to secure the assent of his own colleagues to the economies which he desired, was anxious to appeal to the country on a great measure of retrenchment and financial reform. They, conscious that bye-elections were indicating that the constituencies had no longer any confidence in the Ministry, wished to ascertain beyond a doubt whether they did, or did not, enjoy the confidence of the country.

The dissolution came as a thunderclap on the

[1] *Memorials Personal and Political*, vol. i. p. 330.

[2] There is a list of these bye-elections in the *Ann. Reg.*, 1873, Hist., p. 87.

[3] Morley's *Gladstone*, ii. 487.

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country. Men were expecting that Parliament would meet on the 5th of February; and on the 24th of January men read in their newspapers that Parliament was dissolved. The news made its appearance in the shape of an address to Mr. Gladstone's constituents at Greenwich. To the first part of that address no exception could be taken. Mr. Gladstone reminded the country, through his constituents, that in the previous March the Government had suffered serious defeat; that Mr. Disraeli had refused to accept office, which was thus open to him, 'during the existence of the present Parliament'; that the Liberals had returned to office with a diminution of strength of which they 'were painfully and sensibly reminded during the session'; that the state of things, 'which was not satisfactory at the close of the session,' had not 'improved during the recess'; and that Ministers consequently desired that the nation should 'have full opportunity of expressing will and choice as between the political parties.' 'The Government of the day, whatever it be, will be armed with the just means of authority both within and without the Legislature. . . . The House of Commons will be reinstated in its full possession of constitutional authority, and when it shall see cause to withdraw its confidence from an Administration, it will not leave the sovereign without resource.' Constitutional doctrine, admirably stated, which was entitled to command universal acceptance.

Mr. Gladstone's manifesto to his constituents.

If, however, no exception could be taken to this part of the address, it was otherwise when Mr. Gladstone went on to explain his project of financial reform. The country, he said, had long cherished the expectation or hope of the extinction of the income-tax. An

effort should now be made to fulfil this expectation; and Mr. Gladstone declared that *in present circumstances* it was practicable to do so. And *this policy*, he argued, was compatible with a *reduction of local* taxation. "But it is manifest that we ought not to aid the rates and remove the income-tax without giving to the general consumer, and giving him simultaneously, some marked relief in the class of articles of popular consumption." Relief from some of the constantly growing burdens of local taxation, the abolition of the income-tax, and some approach towards a free breakfast-table, such was the magnificent bait which Mr. Gladstone offered to an astonished country.

He proposes to extinguish the income-tax.

The course was certainly open to criticism. The proper place in which a Minister should expound his policy is the floor of Parliament; the proper occasion for explaining financial measures is the Committee in which the Budget is explained. Mr. Gladstone, by taking a contrary course, gave his opponents the opportunity of declaring that he was offering a huge bribe to the constituencies, and that the bribe was one which he could not have paid. So far as the latter charge is concerned, though it has been repeated again and again, there is no doubt that the reforms which Mr. Gladstone was proposing could have been easily carried out. Mr. Gladstone required 4,750,000*l.* for the abolition of the income-tax; 2,000,000*l.* for the repeal of the sugar duties, and a vague sum, which may be placed perhaps at another 2,250,000*l.*,[1] for the assistance of the rate-

[1] Sir Stafford Northcote, on succeeding to Mr. Gladstone's office, transferred to the Exchequer 1,250,000*l.* of local burdens. I have assumed, for the purpose of my argument, that Mr. Gladstone contemplated giving nearly twice the measure of relief which Sir Stafford

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payers. Magnificent as the project was, it could have been accomplished for 9,000,000*l.* Mr. Gladstone had reason to believe that he could rely on a surplus of 5,000,000*l.*—the actual surplus proved larger. He desired to reduce, it has already been shown, the army and navy estimates by 1,000,000*l.* The additional 3,000,000*l.* could easily have been secured by an adjustment of the estate duties much smaller and lighter than that which Sir William Harcourt was destined to carry in a later Parliament.[1] Whatever other criticism could be applied to the scheme, it could not be fairly said of it, as was said at that time, that Mr. Gladstone had proposed a measure which it was beyond his capacity to carry out.

Feasibility of the project.

Objections to it.

But if the reform which Mr. Gladstone proposed was practicable, the expediency or propriety of proposing it was more than doubtful. Bribery is hateful, whatever shape it may assume, and the offer of huge remissions of taxation in an election address partook unfortunately of the nature of a bribe to the community. The people, however, were not affected by Mr. Gladstone's promises. In every part of the country, except Ireland, the Conservatives gained largely at the polls. The Conservatives found themselves for the first time since 1846 in possession of an ample majority in the House of Commons, and Mr. Gladstone, after some hesitation, decided on imitating the con-

Conservative victory at the polls.

Mr. Gladstone resigns.

effected. See *Hansard*, vol. ccxviii. p. 666.

[1] Sir William Harcourt estimated that the new estate duties which he imposed in 1894 would ultimately yield 3,500,000*l.* to 4,000,000*l.* (*Hansard*, vol. xxiii. p. 498), and these new duties had followed other additions to the estate duties in 1881, 1882, 1889, and 1890, which, in the aggregate, had been estimated to produce considerably more than 2,000,000*l.*

venient, though novel, precedent which had been set by his predecessor in 1868, and on resigning office without meeting Parliament.

The general election which thus took place was in one sense far the most important which had taken place for more than thirty years. The Reform Act of 1867 and the Ballot Act of 1872 had instituted changes which had apparently assured a new lease of power to the Liberal party. For enfranchisement of householders in boroughs had given a preponderance of power to the labouring classes, and secret voting had left them free to exercise the power which they had gained without constraint from their superiors or their employers. It was assumed by old-fashioned Liberals that a Conservative working man was a political impossibility, and that his enfranchisement must inevitably lead to the maintenance of the Liberal party in office. Yet six years after the Reform Act of 1867, in the first general election which had been fought under the ballot, these anticipations had been destroyed, and the country had sent a large preponderance of Conservatives to Westminster. Not until nine years after the first Reform Act did the Conservative party regain its predominance in the Legislature. In only five years after the dissolution of 1868 it had destroyed the Liberal majority.

Significance of the General Election of 1874.

The causes of this great change, which was destined to exert a lasting influence on the history of this country, were numerous. In the first place, Mr. Gladstone had travelled at a pace which was too fast for the more conservative of his followers. Some of the legislation which he had carried, and much of the legislation which he had proposed, was too

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radical for their tastes; and in their secret souls, or in their private correspondence, they admitted that they desired another Government which should come in and do absolutely nothing. The Irish Church Act had frightened the supporters of the Establishment; the Irish Land Act had alarmed the landed interest; the Army Purchase Bill had offended the officers of the army and their friends; Mr. Goschen's proposals for rating woods and shooting rights had perturbed the country gentlemen; Mr. Bruce's Licensing Acts had driven the licensed victuallers into opposition. But it was Mr. Gladstone's special misfortune that while his convictions as a Liberal were alienating whole classes, his conservative instincts were offending the more extreme men of his party. The Irish Church Act, for example, had offended the Church; but it had been followed by an Education Act which, from its regard to the interests of the Church, had driven Nonconformists into revolt. The Irish Land Act had alarmed the landed classes by sacrificing the rights of the proprietor to deal in his own way with his own property. But the Government in dealing with a forest in the east of London, a forest in the south of England, and the land on the Thames Embankment which had been reclaimed from the Thames, had asserted the rights of the Crown to the last penny which it could extract from the property. Mr. Bruce's Licensing Acts had alienated the licensed victuallers, but his refusal to give the people any direct control over the issue of new licences had offended the friends of temperance. Society resented the abolition of purchase in the army; the labouring classes the closing of dockyards; the poor the proposal of a match tax. The good which Ministers may do is easily

Causes of the Liberal defeat.

forgotten; the evil which they contemplate rises up against them at an election. It was untrue to say with Mr. Disraeli that Mr. Gladstone had plundered and blundered. But it was the fact that almost every class in the nation thought that its interests had in some way or other been menaced by Mr. Gladstone or his colleagues.

Discontent with the foreign policy of the Government.

The general discontent which was in this way generated would perhaps have been sufficient to account for the nation's verdict of 1874; but the public was also profoundly dissatisfied with the foreign policy of Mr. Gladstone's Government. Ever since 1864, when Lord Palmerston's senseless menaces had been followed by inaction, the country had been humiliated by a growing conviction that, in the opinion of foreign nations, nothing would induce England to draw the sword. The warmest friend of peace could not quite approve the manner in which Lord Granville had consented to the Conference of London, or the sacrifice which he had made to secure arbitration at Geneva. Even those who think, as the present author thinks, that the reference of the Geneva claims to arbitration was one of the wisest and most beneficial acts in recent history, cannot entirely approve the negotiations by which the result was achieved, or the gratitude with which Ministers accepted the adverse verdict of an international tribunal. 'It would have been better for us all,' so many Englishmen felt with Mr. Disraeli, 'if there had been a little more energy in our foreign policy, and a little less in our domestic legislation.' [1]

While Mr. Gladstone was steadily losing ground

[1] From Mr. Disraeli's address to the electors of Buckingham-shire, *Ann. Reg.*, 1874, Hist., p. 6.

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Growing interest in Mr. Disraeli.

from the unpopularity of his measures and the mistakes of his colleagues, Mr. Disraeli was arousing new interest from the dexterity of his tactics and the vigour of his speeches. Imperturbably calm, he formed a strong contrast to his excited adversary; and he took pleasure in preparing and producing some keen epigram or telling sarcasm which irritated his opponent or amused the country. He was never tired of reminding the people that the Ministry of which Mr. Gladstone was the head was menacing every interest, was plundering and blundering. But he also took advantage of the weak foreign policy of the Government to hold out another and in some respects a worthier ideal. 'The cause of the Tory party, of the English Constitution, and of the British Empire': such were the last words which, 'proud of their confidence, and encouraged by their sympathy,' he pronounced to a Manchester audience in 1872; and he reminded a deputation of Conservative Associations, which he received at the Crystal Palace in the same year, that 'The issue is not a mean one.'[1]

Such declarations were exactly suited to excite enthusiasm among a people irritated at what they thought a tame surrender to Russia in 1871, and a tame surrender to the United States in 1872; and Mr. Disraeli was not only exciting enthusiasm by propounding an Imperial policy, he was concurrently inducing the people for almost the first time in his career to take him seriously. The man who had waited patiently for forty years was at last reaping the fruits of his patience. The distrust with which he had been regarded by his own followers had

[1] Mr. Disraeli's *Collected Speeches*, vol. ii. p. 534.

passed away with the knowledge that he was the only man capable of leading them to victory; and a people out of doors, half charmed, half amazed at a success which had no parallel in history, derived a fresh interest from politics in speculating on the use which Mr. Disraeli would make of his victory.

It is true, indeed, that with Imperialism Mr. Disraeli always connected the East. 'The Queen of England has become the sovereign of the most powerful of Oriental States.'[1] So he said in 1872; and though she had not realised Fakredeen's prediction and transferred the seat of government from London to Delhi,[2] India and the East always held the chief place in Mr. Disraeli's thoughts. Till 1872 the great autonomous colonies of England occupied a very secondary place in his reflections. He probably still retained in his secret soul the opinion which he had privately expressed twenty years before—that the colonies of England were a burdensome possession which sooner or later would imitate the example of the United States, and claim their independence. The grant of self-government to the colonies, he declared in 1872, ought to have been conceded as part of a great policy of consolidation, providing for an imperial tariff, for reserving the unappropriated lands, and for 'a military code which should have precisely defined the means and the responsibilities by which the colonies should be defended and by which, if necessary, this country should call for aid from the colonies themselves.' It is an obvious retort to this criticism that

His imperial policy.

[1] *Collected Speeches*, vol. ii. p. 522.

[2] *Tancred*, p. 263.

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Mr. Disraeli was in Parliament when the colonies were granted self-government, and that he made no proposals on the subject. But it is also probable that, if his later policy had been adopted, the colonies would not have been in 1872 loyal and contented provinces of the Empire. For if the unappropriated lands had been reserved, they would have been deprived of the chief sources of their prosperity; if self-government had been accompanied by an imperial tariff, they would have lost the means of managing their own affairs in their own way. If the mother country had asserted her right to call on the colonies for assistance, she would have received only their grudging instead of their willing support in the hour of her difficulty.

He stimulates interest in the Colonies.

What Mr. Disraeli did was to draw attention to the value to the mother country of her distant possessions, by recording his opinion that 'no Minister would do his duty who neglected any opportunity of responding to those distant sympathies which may become the source of incalculable strength and happiness to this land.'[1]

Formation of the new Cabinet.

In forming his Cabinet Mr. Disraeli displayed prudence. He corrected the ever-increasing tendency to enlarge the numbers of the Council, which cannot be too small for efficiency. Twelve men—six Peers and six Commoners—were alone admitted to the sacred circle. Lord Cairns resumed his seat on the Woolsack; Lord Derby returned to the Foreign Office; Lord Salisbury to India; Lord Carnarvon to the Colonies: in the Commons, Mr. Gathorne Hardy accepted the seals of the War Office; Sir Stafford Northcote became Chancellor of the Exchequer; and

[1] *Collected Speeches*, vol. ii. pp. 530, 531.

Mr. Ward Hunt, Mr. Disraeli's Finance Minister of 1868, First Lord of the Admiralty. Two comparatively new men received other appointments: Mr. Cross, who had defeated Mr. Gladstone in 1868 in Lancashire, was made Home Secretary; and Mr. Smith, who had defeated Mr. Stuart Mill in Westminster, was made Secretary to the Treasury. But the composition of the Cabinet was a matter of minor importance. Its offices were, on the whole, filled by men in whom the country had confidence. One of these was occupied by a statesman (Lord Derby) whom most men thought possessed all the qualities requisite in a Prime Minister; and another of them was entrusted to a nobleman who afterwards had the opportunity of displaying his capacity as the head of a Cabinet. But the country paid slight attention to Mr. Disraeli's colleagues; its interest was absorbed in Mr. Disraeli himself. Mr. Disraeli had passed through the sleepless nights, the days of hot anxiety, the exertions of mind and body, the hatred, the fierce encounters, which Vivian Grey had declared nearly half a century ago that he would endure with a joyous spirit in order to achieve power;[1] and now that Mr. Disraeli had gained, at last, not only place, but power, the whole nation was speculating on the use which he would make of it.

Their domestic legislation.

In one respect Mr. Disraeli did very little. Whatever verdict history may ultimately pronounce on Mr. Disraeli's Government, it will not concern itself at much length with his domestic legislation. The Parliament of 1874 will, indeed, live in history. But the events for which it will be famous were

[1] *Vivian Grey*, p. 112.

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initiated by the action of others and not by itself. The measures which it initiated, although useful, were, with rare exceptions, designed to avoid and not to provoke controversy. In two instances, however, in 1874, the Ministry decided on revising the policy of their predecessors.

Grievances of the licensed victuallers.

The licensed victuallers undoubtedly considered that they had been shamefully treated by the proposals which Mr. Bruce had made in 1871, and the milder measures which he had succeeded in passing in 1872. Conservative candidates in every part of the country had imitated the example of their leader,[1] and had expressed their sympathy with the woes of the trade and their desire to remove them. It was almost inevitable that the new Ministry should do something to redeem the pledges which their supporters had thus given. Happily the task of amending the measure of his predecessors fell on the new Home Secretary, Mr. Cross, a man who was gifted with as much common sense as his leader was endowed with imagination. Mr. Cross realised the grave evils which resulted from the excessive consumption of intoxicating liquors. He was alarmed by the fact that the increasing prosperity which had been the striking feature of the preceding year had led to a considerable increase in the consumption of spirits and beer; and he decided, if he was bound to do something, to do as little as possible to promote a state of things which he deplored. Instead of talking of the harassing legislation of Mr. Bruce, he commenced his speech on the introduction of a new

[1] See page 238 for Mr. Disraeli's speech of 1872, in which the publican figures between the farmer and the widow as marked out for plunder by the Government. It was a spectacle worthy of Mr. Disraeli's imagination. *Collected Speeches*, vol. ii. p. 515.

The Licensing Bill of Mr. Cross

Licensing Bill with an analysis of the evils of the liquor trade which might have commanded the approval of a meeting of temperance reformers; he concluded it by proposing that the hours of closing, which had been left within certain limits to the magistrate, should be fixed by the Legislature. As the Bill was originally drawn, it was proposed that the hour should be fixed at half an hour after midnight in the Metropolis, at half an hour before midnight in large towns, and at eleven in the rest of the country: hours which practically exceeded by half an hour those which had been usually fixed by the magistrate. Before the Bill passed Mr. Cross found it necessary to accept an amendment fixing the closing hour at eleven in large towns or populous places, and at ten in the country, and he left to the magistrates a discretion to determine what was or was not a populous place. Amended in this way, the Bill did not do much to interfere with the best parts of Mr. Bruce's measure, or to conciliate the licensed victuallers themselves. They complained that, after contributing to the Conservative victory at the polls, they had been betrayed by the men whom they had helped to place in office.[1]

[1] Mr. Cross's speech on introducing the Licensing Bill is in *Hansard*, vol. ccxviii. p. 1226. He said that the consumption of spirits, which had amounted to 30,163,933 gallons in 1853, had virtually remained stationary for sixteen years, and that in 1869 it was only 30,114,594 gallons; but from 1869 to 1873 it had increased to 39,132,207 gallons. At the same time the consumption of beer, calculating it by the bushels of malt used, had risen from 52,000,000 bushels to 63,500,000 bushels, and of wine from 14,500,000 gallons to 18,000,000 gallons for the same year—the year in which it was claimed that the people 'had drunk themselves out of the Alabama difficulty' (*ante*, p. 112). No fewer than 182,000 persons had been proceeded against for drunkenness. Mr. Cross rightly described this state of things as appalling (*Hansard*, vol. ccxviii. pp. 1226, 1227, 1229). Mr. Cross made the concession which put back the hour of closing from 11.30 to 11 P.M. on the motion

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Mr. Forster's measure of 1869 for dealing with Endowed Schools.

Report of the Commission of 1867.

The Licensing Bill was not the only measure which the new Government introduced to revise the policy of their predecessors. Five years before, in 1869, Mr. Forster had carried the measure for dealing with the endowed schools which had resulted from the labours of the Commission over which Lord Taunton had presided, and on which Mr. Forster himself had served. The general conclusion of the Commission had emphasised the necessity for reform. Three thousand schools, enjoying a gross income of 592,000*l.* a year,[1] ought to have afforded a noble opportunity for the diffusion of learning. A large number of the schools were 'found to be in a feeble and decaying condition. . . . The number of scholars who were receiving that sort of classical education contemplated by the founders was very small, and was steadily decreasing; the general instruction in other subjects was seriously defective; and the existence of statutes prescribing the ancient learning often served as a reason for withholding any modern addition to it.'[2] To remedy these grave evils Mr. Forster proposed and carried a measure which created an 'executive body—the Endowed Schools Commission—to frame new schemes for educational endowments generally, and which also provided for a register of qualified teachers and for the due examination and

for going into committee (*ibid.*, vol. ccxix. pp. 966, 981). Mr. Herbert Paul says that 'the Act did, upon the whole, increase the opportunities of drinking' (*Hist. of Modern England*, vol. iii. p. 376). But, except possibly in the metropolis, it is very doubtful whether it had this effect. Mr. Punch was much more nearly right when he made Mr. Bung say:

'The Bill and Bloke is both a do,
'Tis hall a "Cross" between the two.'

[1] The figures are in the *Life of Forster*, p. 252. But cf. Report, Schools Inquiry Commission, 1867, p. 659, *Parl. Papers*.

[2] I have ventured to quote the words of Sir Joshua Fitch, an Assistant Commissioner under Lord Taunton's Commission. *Encycl. Brit.* vol. xxvii. p. 664.

supervision of all intermediate and voluntary schools, both public and private.'[1] The first part of the Bill eventually became law; and the Commission, under the presidency of Lord Lyttelton, Mr. Gladstone's brother-in-law, proceeded to give energetic effect to the views of its framers. It was almost inevitable that in doing so they should offend a great many people. They were practically compelled to frame schemes for the future management of an enormous number of schools, which admittedly had fallen into a most unsatisfactory condition; and it was hardly to be expected that the trustees of these schools, or the powerful Church in whose interests they were mainly conducted, should accept with satisfaction reforms from outside, or view with gratitude changes which opened the benefits of endowments to people who had not previously enjoyed them. The dissatisfaction which was then felt found expression before the fall of Mr. Gladstone's Government. The Ministry were compelled to introduce a measure for continuing the Commission, who were only appointed for a time, for another period of three years; and the House of Lords ventured on an amendment which only continued the Commission in office till the 15th of August, 1874, or for little more than a year.[2] The new Government, therefore, was compelled, unless it decided on allowing the Commission to drop altogether, to legislate; and, in the middle of July, Lord Sandon, the Vice-President of the Council,

[1] The quotation in the text is from Sir Joshua Fitch. For the Bill see *Hansard*, vol. cxciv. pp. 113, 1356. For the Reports of the Select Committee (to which the Bill was referred, *ibid.*, vol. cxcv. p. 23) see *Parl. Papers*, 1869, Nos. 208, 256. The Bill became the 32 & 33 Vict. c. 56

[2] For the amendment to the Bill of 1873 see *Hansard*, vol. ccxvii. p. 1418.

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a man who commanded universal respect, but who was a prominent representative of what was popularly called the Low Church, introduced a measure for continuing the work of the Commission, and for transferring its functions to the Charity Commissioners.[1]

Lord Sandon's Bill.

If Lord Sandon had stopped at this point his Bill would probably have passed without much opposition. But in the remaining clauses he endeavoured, almost ostensibly, to reclaim for the Church the position of which it had been deprived by the Act of 1869. Very unwisely, indeed, he reminded the House that that Act had been passed when the Conservative party, stunned by overwhelming and unparalleled defeat, and dazed by the prospect before them, had submitted to things which they would otherwise have opposed.[2] The swing of the political pendulum encouraged the hope that the Conservative party might regain for the Church in 1874 the position which it had lost in 1869. The Act of 1869 had directed that — unless the founder had evidently intended that the school should belong to a particular denomination—no one should be disqualified for the governing body by his religious opinions, or for the mastership by not being in Holy Orders. The wording of the Act had presumed that the school was national, and had thrown on its managers the onus of showing that it was denominational. But Lord Sandon proposed that in any case, when

[1] The original Commissioners had been Lord Lyttelton, Mr. Hobhouse, and Canon Robinson. Mr. (afterwards Lord) Hobhouse resigned on his appointment as Legal Member of the Council of the Governor-General of India in 1872, and was succeeded by Mr. H. J. Roby. The new Commissioners under Lord Sandon's Act were Mr. Longley (son of Archbishop Longley), Lord Churton (a Conservative peer), and Canon Robinson.

[2] *Hansard*, vol. ccxx. p. 1629.

the scholar was required to attend a particular church, or the regulations of the school were to be submitted to or approved by one of the officers of the church, the school should be presumed to belong to the members of that church. The effect of this proposal was much wider than it seemed. Before 1660 the people of this country were technically all members of the same Church. Before 1689, when the Toleration Act was passed, it was impossible at law for a Nonconformist to found a school on Nonconformist principles. Before 1779, when the Act relieving dissenting schoolmasters from the subscription required by the Toleration Act was passed, a school could not claim the right to teach any other than the Anglican doctrine.[1] In practice, therefore, it followed that every man desirous of promoting the cause of education had to accept the position which the law had made, and to submit to the condition that the religion taught at the school should be the religion which the law allowed to be taught. As in those early days Churchmen and Nonconformists were equally opposed to what would now be called a secular education, it was equally natural that founders should direct that the children should go to church or else that the school should be visited by the diocesan. The Liberals contended that, in these circumstances, the primary object of the founder was education; that it was only the accident of the law which had given to schools their denominational character; and that at a time when the exclusive privileges of the Church had been destroyed it was right that the nation should re-enter on its heritage. The Liberal argument therefore implied that, in all

The denominational question.

[1] *Life of Fawcett*, p. 404.

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Liberal and Conservative positions on the question.

cases where the founder had not directed that the school should be associated with any particular denomination, it should be open to all classes of the people. The Conservatives, on the contrary, contended—or Lord Sandon in their name contended—that, when the founder had directed that the children should go to church, or had in any way mentioned some officers of the church in connection with the management, the presumption should be that he intended to found a Church school; and the school should in future be maintained in the interests of the Church of England.

The effect of the Conservative contention was large. Out of 782 grammar schools in the country 584 were founded before the passing of the Toleration Act. Thirty-five of them traced back to a time when the Church had not renounced its allegiance to Rome, and their founders had directed that the children, on Wednesdays and Fridays, should, in the company of the head master, 'say the Common Litany and *De Profundis* for the souls of their founders.'[1] The Reformation had swept away prayer for the dead; the Church of England had entered on the heritage of the Church of Rome, and the founders' express directions had of course been ever after disobeyed. But what difference in principle could be discovered between this case and the case of a school founded a century later which directed that the children should periodically go to church? If the Church of England could say that she was the heir of the Church of Rome, could not the Nonconformist say that

[1] This was the direction in the case of the Manchester School. The argument is taken from Mr. Forster's speech. *Hansard*, vol. ccxx. p. 1648.

he equally with the Churchman was the heir of an England in which for nearly a century and a half Anglicanism was the only religion allowed by law, though during a portion of that period Independents and Puritans had possession of the churches?[1] But the Conservative argument was still more far-reaching. For, if it was once conceded that the Church had the right to all the advantages of these endowments, it followed that the principle which Parliament had enforced in abolishing tests at the universities was wrong. It could not logically be contended that Parliament was right in opening the prizes of the universities to those who dissented from the Church, if it was wrong in insisting that endowed schools should be treated on similar principles. If the nation had the right to enter on its heritage in one case, it had an equal right to enter on it in the other. But the whole drift of legislation long before the accession of Mr. Gladstone to office had been to destroy the privileges which the Church had possessed. The force of opinion had swept away the exclusive jurisdiction which she had enjoyed. It

Far-reaching nature of the Conservative argument.

[1] Mr. Forster said that forty-four of the schools to which he was referring were established during the Commonwealth, when Independents and Presbyterians had possession of the churches (*Hansard*, ccxx. 1649). But Mr. Gladstone put the argument still more strongly: 454 grammar schools 'were founded between 1530 and 1660. They form the main object of the attack of this Bill, and the doctrine laid down is that to these schools and their endowments the Church of England, as it now exists, is in equity absolutely entitled. That is the proposition I directly challenge. I say the Church of England, as it now exists, has no such title to the endowments given for the purposes of education, and of religious education, between 1530 and 1660. And why, Sir? Because, though during that period the Church of England represented parties in deadly conflict with one another, the whole nation was still combined within its borders. It was not allowed to exist outside the Church of England. Any man who wished to live at all must live in the Church of England.' *Ibid.*, p. 1705.

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had superseded the Church Registers with a National Registry; it had made marriage a civil ceremony; it had abolished compulsory church rates; it was about to open the churchyard to the Nonconformist. Mrs. Partington might have resumed her hopeless task of contending with her mop against the gathering tide with as much hope as the Church could entertain of resisting the progress of opinion.

The majority of the Conservative party was so large, its discipline was so good, that the House declined to be swayed by argument, and the second reading of Lord Sandon's Bill was carried by a large majority.[1] But the struggle was renewed a week later by Mr. Fawcett, who, on the motion for going into committee, asked the House to affirm the inexpediency of allowing any one religious body to control schools which were thrown open to the whole nation by the policy of the last Parliament,[2] and though the amendment was rejected, the Conservative majority sensibly declined.[3] The Liberal party was naturally encouraged in its opposition by the evident symptoms of dissatisfaction. The period of the session convinced even the Conservatives that they could not hope to carry a contentious measure without sitting far into the autumn; and, after carrying the clause which transferred to the Charity Commission the functions of the Endowed Schools Commissioners, Mr. Disraeli came down and offered to abandon the rest of the Bill. In doing so he made a statement which perhaps has no parallel in the hundreds of volumes in which the debates of the British Parliament are recorded. The Bill, he said,

Opposition to Lord Sandon's Bill.

The greater part of the bill abandoned by the Government.

[1] By 291 votes to 209, *Hansard*, vol. ccxx. p. 1716.

[2] *Ibid.*, vol. ccxxi. p. 303.

[3] 262 votes to 193, *Ibid.*, p. 483.

had led to protracted debates from 'the House being under an entire misconception of the character of many of its clauses.' The difficulty was 'chiefly due to the language which had of late years stolen into our legislation, and which, in this instance, is of such a character that upon every point to enable us to understand it the aid of experts and adepts in interpretation is needed.' Neither he nor Lord Sandon had made any statement as to the Bill that was not justified by its language. But — so he went on — 'I have been obliged to take these statements on trust from those who made them, for I honestly confess — although it may be an argument to prove my own incapacity for the position I occupy — that, as to those clauses, although I have given them many anxious and perplexed moments of consideration, they have much perplexed me. I have not been able to obtain that mastery over them that I should wish to have.'[1] The spectacle of a Prime Minister professing himself unable to understand the clauses of a measure which one of his own colleagues was suffered to introduce with the object of revising the policy of his predecessor, was unique. It became more amazing when, in the following week, Mr. Disraeli, in announcing the names of the new Commissioners, declared that 'the Endowed Schools Bill was a Government measure; it was prepared by the Cabinet; the Cabinet are responsible for it, and they are not disposed to shirk their responsibility.'[2] That statement, no doubt, exonerated Lord Sandon, but it convicted the Cabinet of inexcusable conduct. No Ministers can have a right to lay a proposal before Parliament which they confess their inability to understand.

[1] *Hansard*, vol. ccxxi. p. 627. [2] *Ibid.*, p. 978.

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The proceedings on this Bill had not added to the reputation of the Ministry. They had set themselves to revise the policy of their predecessors and they had failed. But, whatever loss of credit the Ministry may have sustained from the events of the session, the front Opposition bench were in greater difficulties. Mr. Gladstone was conscious that in many important matters he was out of touch with a large section of his party. He was, moreover, depressed by the result of the General Election, and conscious of the weight of his increasing years. He expressed to his more intimate friends a desire to retire from the leadership, and his attendance in the House of Commons throughout 1874 was intermittent and irregular. Towards the close of the session a measure for the abolition of patronage in the Church of Scotland, and a Bill to prevent irregularities in the Church of England (subjects which will be more conveniently dealt with in another chapter), induced him to return to the scene of his old labours. But his attitude toward both these proposals did not tend to bring him into accord with his followers, or to increase his own desire to resume his parliamentary duties. He thought that the House of Commons was in danger of becoming 'a debased copy of an ecclesiastical council in which all the worst men, and worst qualities of the worst men, would come to the front';[1] and he convinced himself that he was anxious to spend the remainder of his days 'in tranquillity, and at any rate in freedom from political strife.'[2] Tranquillity, indeed, was left out of Mr. Gladstone's composition; and he had already thrown himself into

Mr. Gladstone's discouragement.

[1] Morley's *Life of Gladstone*, vol. ii. p. 502.

[2] *Ibid.*, p. 495.

a controversy on the decree of Infallibility which had been promulgated at Rome in the first year of Mr. Gladstone's Administration, and which Mr. Gladstone, for the first time, was now at leisure to denounce.[1] 'Neighing like a war horse'[2] on hearing that Cardinal Newman was entering the lists against him, Mr. Gladstone refused to reconsider his decision to retire, and after some hesitation between the rival claims of Lord Hartington and Mr. Forster, Lord Hartington was chosen to lead the Liberal party in the House of Commons in his place.[3]

He retires from the leadership of the Liberal party and is succeeded by Lord Hartington.

Thus, when the session of 1875 commenced, the House of Commons wore a fresh aspect. The Liberal party in 1874, except for the occasional presence of Mr. Gladstone, had carried on its work of criticism without the advantage of a recognised leader. In 1875 Lord Hartington occupied the post which Mr. Gladstone during the preceding ten years had continuously held. The experiment was one which was undertaken with some misgivings.

Lord Hartington had neither the enthusiasm nor the eloquence which had enabled Mr. Gladstone to dominate an audience. But he had ability of no mean order, a temper which never failed, and a judgment which was rarely wrong; and he lived to prove—as Lord Althorp had proved forty-five years before—that, of all the qualities which fit a man to lead his fellow men, there is none that can be compared with character.

Lord Hartington.

The programme of the Government was singu-

[1] Morley's *Life of Gladstone*, vol. ii. pp. 498–525.

[2] *Life of Lord Granville*, vol. ii. p. 141.

[3] *Ibid.*, pp. 142–154; Morley's *Life of Gladstone*, vol. ii. pp. 503–506; Wemyss Reid's *Life of Forster*, pp. 369–371.

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larly modest. The measures recommended from the Throne were of social rather than political importance. Some of them, such as measures for facilitating the improvement of artisans' dwellings, for preventing the pollution of rivers, and for consolidating the Sanitary Laws, were obviously designed to give practical effect to Mr. Disraeli's famous epigram, 'Sanitas Sanitatum omnia Sanitas.' Others of them, for reconstructing the Judicature and simplifying the transfer of land, were legacies from the preceding session. But none of them involved any keen strife between the two great parties in the State. If the Ministry abstained on one side from what its leader called the harassing legislation of his predecessor, on the other side it abandoned any intention of revising the legislation of Mr. Gladstone's Ministry. Wise from experience, it determined even to leave the Endowed Schools Act alone till, at any rate, they could avail themselves of the experience which the new Commissioners, who 'were acting with considerable satisfaction to the country,'[1] might be expected to acquire.

Social legislation.

The Judicature Act was a supplement to previous legislation. In 1873 Lord Selborne, who had succeeded Lord Hatherley as Chancellor, passed an Act which united and consolidated the High Court of Chancery, the Court of Queen's Bench, the Court of Common Pleas, the Court of Exchequer, the High Court of Admiralty, the Court of Probate, and the Divorce Court into one Supreme Court. Lord Selborne had a right to a large share of credit for this reform. As far back as February 1867 he had called attention to the waste of judicial power which

[1] Mr. Disraeli's phrase, *Hansard*, vol. ccxxii. p. 70.

resulted from the separation of the Courts.[1] He had been an active member of the Judicature Commission which had been appointed in consequence of his speech,[2] and he had the discretion in proposing his scheme to avail himself of the best advice which he could procure in his own profession and from the eminent men on both sides of politics who had risen from that profession to the benches of the House of Lords. Some doubts were expressed at the time, some doubts have been felt since, whether in carrying this reform it was necessary to sweep away the old-fashioned names which had come down from early periods of our history; but no doubt is now felt that the reform in its main aspect was wise and salutary, and that it has proved beneficial. It was thought at the time that the fusion of the various Courts would tend to do away with the distinction between law and equity, which had been so striking a feature in English jurisprudence, and as a matter of fact the Supreme Court became, not 'a Court of Law or a Court of Equity, but a Court of Complete Jurisdiction.'[3] But in practice it was found that the measure had resulted rather in a fusion of the Courts than of the principles by which they were guided.[4] If, however, Equity still flourished, or rather prevailed, the Act, or more strictly the rules made under the Act, swept away the old abuses which had been con-

Lord Selborne's consolidation of the Judicature in 1873.

[1] *Hansard*, vol. clxxxv. p. 481.

[2] *Memorials Personal and Political*, vol. i. p. 300. Lord Cairns presided over the Commission of 1867. He gave, in 1875, a very useful summary of the whole proceedings which led to the legislation of 1873. *Hansard*, vol. ccxxiii. p. 574.

[3] Lord Cairns in Pugh *v.* Hiatt, 7 App. Cas. p. 237. *A Century of Law Reform*, p. 196.

[4] *Ibid.*, p. 319. 'If there were a variance between what, before the Judicature Act, a Court of Law and a Court of Equity would have done, the rule of the Court of Equity must now prevail.' Lord Cairns in the judgment already quoted.

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nected with the Court of Chancery. By one of these rules oral testimony was substituted for written evidence; and by others of them Executors and Trustees were enabled to obtain the direction of the Court on any difficult point in the construction of a will or the administration of a trust without throwing the whole estate into Chancery. Before the Act of 1873 the last remedy to which any prudent person would resort was an appeal to the Court of Chancery. After the Act of 1873 the Chancery Division of the High Court was a refuge to which Executors and Trustees were very glad to resort.[1]

He proposes to abolish the appellate jurisdiction of the House of Lords.

So far, however, as the consolidation of the Courts into one High Court was concerned, Lord Selborne's Bill provoked very little criticism. But its author wished to go further. He asked the House of Lords to part with its appellate jurisdiction; to put an end, thereupon, to the delay and expense of double appeals; to abolish the intermediate jurisdiction of the Exchequer Chamber and the Court of Appeal in Chancery, and to concentrate in one Court of Final Appeal all the judicial powers which were or could be made available for the purpose, and to empower the Crown to refer Indian and colonial appeals to the new Court thus constituted. Lord Selborne hoped that the Scotch and Irish appeals and the ecclesiastical appeals might eventually find their way to the new Court. But he did not consider it safe or expedient, in a constitutional point of view, to remove Scotch and Irish appeals from the House of Lords without a deliberate expression of Scotch and Irish opinion; and, in the same way, he did not think it prudent to encumber

[1] The debates on the Judicature Bill fill a large space in *Hansard*, vols. ccxiv.–ccxvii.

his measure with any provisions as to ecclesiastical appeals without some assurance that they would not provoke opposition from any of the parties which divided the Church.[1]

This part of the scheme was not received with the unanimous approval which had greeted the consolidation of the Supreme Court. Lord Cairns, who had been consulted by Lord Selborne throughout, preferred the more tentative course of creating a strong Court of Appeal in the Supreme Court, which, from its strength, would prevent appeals being carried to the Lords.[2] Conservatives not unnaturally considered that the dignity of the House of Lords would be impaired by the loss of its appellate jurisdiction; and Scotch and Irish lawyers disliked the exclusion of Scotch and Irish appeals from the measure. Though the Bill passed in safety through the Lords, these and other causes arrested its progress in the Commons. In order to facilitate its passage Mr. Gladstone, on the 30th of June, endeavoured to satisfy Scotch and Irish opinion by carrying Scotch and Irish appeals to the new Court;[3] three days later he accepted a proposal of Mr. Gathorne Hardy's for a similar transfer of ecclesiastical appeals.[4]

New Court of Appeal.

The alterations thus made in the Bill in the Commons had important consequences. There were, in the first instance, grave objections to the proposed changes. The Bill, so far as it affected England, was

[1] *Memorials Personal and Political*, vol. i. pp. 305, 306. I have used, as far as possible, Lord Selborne's own language in the text.

[2] *Ibid.*, p. 309.

[3] *Hansard*, vol. ccxvi. p. 1561.

[4] *Ibid.*, p. 1795. This provision, which was sprung upon the Church, and which aroused the indignant remonstrance of Archbishop Tait, was subsequently modified by the admission of Bishops as Assessors to the new Court of Appeal. *Life of Archbishop Tait*, vol. ii. p. 117 *seq.*

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complete. The Appellate Court which it proposed to set up was part of the Supreme Court of Judicature which it was the object of the Bill to establish. But the Bill had not touched the Irish and Scotch Courts. The new appellate jurisdiction which it sought to establish was not framed with reference to the needs of Scotland and Ireland; and it was, to say the least, desirable to ascertain by inquiry how it was adapted to this end before a grave and irremediable step was taken. But the amendments of the Commons had also the unexpected effect of raising a question of privilege between the two Houses. It was alleged to be a privilege of the Peers that any Bill affecting the limits of the jurisdiction of the Upper House must be commenced in that House, and that it must not be altered elsewhere. Lord Lyndhurst, more than twenty years before, had objected, on this ground, to a Bill which empowered the Lords to require the assistance of the equity judges in hearing appeals; and it was argued that, if Lord Lyndhurst was right, amendments which removed Irish and Scotch appeals from the jurisdiction of the Peers were still more inadmissible. Lord Selborne, though he did not agree with the argument, thought that it enabled the Government to reconsider its position, and he decided to defer any legislation as to Scotch and Irish appeals till another session.[1] Before another session came the change of Government imposed the duty of initiating legislation on Lord Cairns, who introduced a Bill for the transfer of Scotch and Irish appeals to the new Court. The Bill passed the Lords and fell through in the Commons. It was again introduced

Legislation as to Scotch and Irish appeals deferred.

[1] For Lord Cairns's point of privilege, *Hansard*, vol. ccxvii. p. 10. Cf. *Memorials Personal and Political*, vol. i. p. 312.

in the session of 1875. But the Conservative feeling, which had already found expression in both Houses in 1874,[1] for retaining the Lords as the final Court of Appeal had by this time acquired fresh strength. Mr. Disraeli was not disposed to resist it; Lord Cairns himself found it necessary to yield to it. The sections of the Act of 1873, after another year's delay, were repealed; and a new Act was passed, strengthening the Lords by the addition of two, and ultimately four, judges (who eventually were made peers for life), and constituting them a final court of appeal for the United Kingdom.[2]

Constitution of final Court of Appeal in 1876.

The scheme which was thus passed after four years of labour was neither so logical nor so complete as that which Lord Selborne had proposed, and in which Lord Cairns had originally acquiesced. It did not abolish intermediate appeals; it left ecclesiastical (as well as colonial) appeals with the Privy Council; but it suited the genius of the British people. For the British people are rarely logical or consistent, and perhaps have much more pleasure in preserving the continuity of old institutions than in devising new-fangled and untried arrangements. The Court, indeed, which the Act of 1876 constituted was only the House of Lords in name. The peers generally were debarred from taking part in its proceedings; it was authorised to sit when Parliament was not in session. But it derived, or seemed to derive, dignity from its name and from the fact that its members were peers of Parliament. Perhaps a more

Objections to the Act of 1876.

[1] *Hansard*, vol. ccxix. p. 1359, and vol. ccxxi. p. 133.

[2] Lord Cairns's speech explaining his reasons for restoring the jurisdiction of the Lords is in *Hansard*, vol. ccxxiii. p. 574. For the Act of 1876 preserving the appellate jurisdiction of the Lords, see *Ibid.*, vol. ccxxvii. p. 909.

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serious objection was that its strength partly depended on the accident whether, in addition to the four Lords of Appeal in ordinary, there happened to be a sufficient number of peers who had held, or were holding, high judicial office. A still graver objection was that it did not necessarily comprise the highest available judicial ability. The intermediate Court of Appeal might conceivably contain men of greater attainments and of greater capacity. But the Court on the whole commanded, and did not cease to command, the confidence of the profession and the public; and except that it continued the double appeals, with the expense inevitable from the system, it remained, and seems likely to remain, a permanent part of our judicial constitution.

Lord Cairns's Act for registering possessory titles.

The same sort of criticism is applicable to another Act which became law in 1875. Lord Westbury's Act for the Registration of Titles had proved an almost ludicrous failure.[1] 'Its fatal defect was that it only provided for the registration of indefeasible titles after strict examination.'[2] Lord Selborne in 1873 endeavoured to simplify and in some respects to relax the provisions of Lord Westbury's Act, to authorise the registration of possessory titles, and after a limited time to make registration compulsory on every sale of land.[3] In the confusion of 1873 the Bill was lost, and Lord Cairns, after failing in 1874, succeeded in passing a measure in 1875, which adopted the principle of registering the possessory titles, but which abstained from making registration compulsory. Lord Cairns's proposal proved hardly

[1] *Ante*, vol. i. p. 492.
[2] *A Century of Law Reform*, p. 326.
[3] *Memorials Personal and Political*, vol. i. p. 317.

more efficient than that which Lord Westbury had made thirteen years before. The purchaser hesitated to adopt a system which involved some slight additional expense, 'and which his solicitor told him did not provide him with any additional security'; and another quarter of a century was destined to pass before registration was made compulsory in any part of England.[1]

These two measures — the work of the Lord Chancellor—probably excited very little interest in the mind of the remarkable statesman who presided over the Cabinet. He probably rejoiced at the movement which restored to the Peers their appellate jurisdiction. But he had otherwise no familiarity with the measures themselves, and little or no concern in their conduct. Mr. Disraeli, however, in opposition had made the memorable declaration, 'Sanitas sanitatum omnia sanitas.' His enemies asserted that he had propounded a policy of sewage; his friends commended him for the discovery that the health of the people was of more importance than their enfranchisement. Friends and enemies were equally eager to see what use he made of his position to promote sanitary reform.

Sanitary reform.

[1] For the Bill of 1875, *Hansard*, vol. ccxxii. pp. 744, 1041, and 1786, where the reasons for and against compulsion are stated. In Lord Cairns's excuse it must be recollected that compulsion was only admitted by Lord Halsbury's Act of 1897; that even by that Act it was only applicable to those parts of England to which it was expressly applied by order in Council; and that, up to the date at which this chapter is written, it has not been extended to any part of England outside the City and administrative County of London. Those who are familiar with the work of the Land Registry, and with the hostility with which solicitors still regard the law, may perhaps conclude that many years will pass before the principle of compulsory registration is enforced throughout England. In Scotland the much easier course has been adopted of the compulsory registration of deeds.

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Mr. Cross at the Home Office.

Fortunately for the reputation of his Ministry, he placed at the Home Office, on the formation of his Cabinet, a gentleman, Mr. Assheton Cross, who combined great industry and acuteness with some knowledge, drawn from the north of England, of the requirements of the working classes. In 1874 Mr. Cross was able to pass an Act, which he had inherited from Mr. Gladstone's Government, for regulating the labour of women and children in textile factories. In 1877 he carried a measure which placed the prisons of the country under the control of the State,[1] and, in 1878, he succeeded in consolidating the whole mass of factory legislation which had gradually grown up during the reign of the Queen.[2] The man who consolidates the law may not be so bold an innovator as the man who initiates the reforming measures; but he fulfils, in an imperfect society, an equally useful purpose.

The administration of the Home Office by Mr. Cross, however, will hereafter be recollected by the efforts which he made to improve the conditions amidst which the poor live. It may perhaps be recollected that, in the days of Chartism, the leader of the Chartists had declared that the principle of the people's Charter was the right of 'every free man that breathed God's pure air, or trod God's free earth,' to have a happy home.[3] Unhappily, the constant tendency to concentrate industry made the realisation of this hope more and more difficult. Something, indeed, had been done. The closing of urban

[1] *Hansard*, vol. ccxxxv. p. 31; 40 & 41 Vict. c. 21.

For Mr. Cross's Bill of 1874, see *Hansard*, vol. ccxix. p. 1415; for the Bill of 1878, *Ibid.*, vol. ccxxxvii. p. 1454. I hope in a later chapter to deal with the progress of the working classes, and to say something more about this legislation.

[3] *Hist. of England*, vol. iv. p. 383.

cemeteries had separated the living from the dead;[1] the construction of an arterial system of drainage in the metropolis and other large towns had removed some of the stagnant filth from the area of the homes in which the poor dwelt; the closing of contaminated wells and the provision of purer water had removed one serious danger from the lives of some of the poor. Above all these considerations the rate of wages had sensibly increased and the cost of living had sensibly diminished since the introduction of free trade.[2] The picture of abject misery which the present writer endeavoured to draw of the condition of the poor at the opening of the Queen's reign[3] would undoubtedly require repainting before it could be made applicable to their condition in 1875. But, in one respect, their condition had not materially improved. The constant concentration of the people in towns was making it more and more difficult for the labouring classes to obtain decent accommodation for themselves and for their families; the increasing demand for room was simultaneously raising the rent which the owner was able to exact for miserable and inadequate lodgings; and while in all other matters the condition of the poor had sensibly improved, the

Condition of the urban population.

Over-crowding.

[1] In 1848, burial in or underneath any church or chapel built in any urban district was forbidden on sanitary grounds except by special leave (11 & 12 Vict. c. 63, secs. 82, 83); and in 1852 the Privy Council was empowered to close any burial ground within the metropolis (15 & 16 Vict. c. 85, sec. 2). In 1879 the Local Government Board was authorised to compel local authorities to provide sufficient cemetery accommodation. *Century of Law Reform*, pp. 149, 150.

[2] Sir Robert Giffen calculates that between the forties and the seventies the rate of wages in this country rose from 50 to 100 per cent., and that the hours of work decreased by 20 per cent. He adds that while the average price of wheat from 1837 to 1846 had been 58*s*. 7*d*. per quarter, the price of wheat in 1869 had fallen to 45*s*. 2*d*.

[3] *History of England*, vol. iv. p. 339 *seq*.

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houses or rooms in which they were forced to dwell showed little or no improvement.

Housing of the working classes.

The wealth of London added to the extent of the evil. Any landlord who wished to improve his property naturally desired to replace the miserable dwellings of the poor with better buildings. Any public authority that wished to make a new street thought it both economical and advantageous to carry it through some poor quarter of the town; and any company which wished to facilitate locomotion drove its railway through streets occupied by the poor without thought for the unhappy occupants. It has already been shown in a previous chapter how Lord Derby, face to face with this policy, persuaded the House of Lords to direct that its Select Committee on new railway projects affecting the metropolis should be instructed to inquire into and report upon the number of persons liable to be removed under the schemes, and whether provision had been made or required for remedying the evils of their displacement.[1]

Attempted remedies.

The remedy which Lord Derby thus proposed did not go very far; and in 1868 a private member, Mr. McCullagh Torrens, succeeded in passing a Bill which enabled local authorities in the metropolis to pull down houses unfit for human habitation.[2] The munificence of a great merchant, Mr. Peabody, and the exertions of a London tradesman, Mr. Waterlow, who formed a company for the erection of industrial dwellings, did something to increase the supply

[1] *Ante*, vol. i. p. 464.

[2] For Mr. Torrens's Bill, *Hansard*, vol. cxc. p. 1431. The Bill was amended (Mr. Cross said somewhat shorn of its proportions, *Ibid.*, vol. ccxxii. p. 99) by a Select Committee of the House of Lords. The amendments made by the Committee were explained by its chairman, Lord Chelmsford, in *Ibid.* vol. cxciii. p. 984.

of sanitary dwellings for the poor.[1] But the united effect of all these efforts was very small. Up to 1875 the houses erected by individuals and associations only provided accommodation in the metropolis for 30,000; and London—in the popular sense of the term—was adding 40,000 persons a year to its population.[2]

The Bill of 1875.

How bad the state of things was may perhaps be inferred from an isolated passage in the speech that Mr. Cross made in introducing the Bill of 1875. 'I know,' he said,[3] 'of one place in St. Giles's where there are seventy courts and alleys or small streets close together without one single thoroughfare through which the residents can get a breath of pure air. Some of the houses are in such a condition that the walls are engrained with disease; no expenditure of money upon them can make them healthy, and the only practical way of dealing with them is to pull them down. Family after family goes into the house, and it is certain to catch the fever which has killed off the previous occupants; and unless you step in and interfere this will go on for ages. In many cases you find the houses are built upon ground that is saturated with everything that is abominable; miasma rises from the ground through the houses, and nothing can be done to cure this unless you make a clean sweep of the houses.' The effect of this state of things on life and health was appalling. In 'one district of London, having a population of from 2000 to 2100, there have been more people sick in five years than the whole population—not of ordinary diseases, but of fevers; and there is not one

Speech of Mr. Cross.

[1] *Ante*, vol. i. p. 464.
[2] *Hansard*, vol. ccxxii. p. 99.
[3] *Ibid.* p. 102.

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house in which there has not been a death annually.' The Medical Officer of Health in Paddington drew a comparison between two districts of equal area under his supervision—one chiefly occupied by the rich and the other by the poor—and he found that the less crowded district, with one-sixth of the population of the other district, produced twice as many children who grew up to be healthy adults.[1]

Other towns, whose poor were not worse housed than in London, in the meanwhile had adopted some more or less efficient remedies. Glasgow, in 1866, obtained an Act under which its corporation was empowered to purchase an insanitary district of the town, to pull down the houses, and to replace them with sanitary dwellings. Edinburgh, in 1867, followed the example which had been set it by Glasgow. The best results had followed these great experiments. Crime had diminished; disorderly houses had decreased in number; and, in the words of the chief constable of Edinburgh, 'the city has been cleared of the foulest dens of vice and profligacy, and their occupants have been scattered among a population breathing a purer moral atmosphere.'[2]

Edinburgh and Glasgow adopt remedies

It was natural that men who took an interest in the welfare of the community should desire to extend to London and other large towns the work which had been accomplished in Glasgow and Edinburgh; and, in 1874, a comparatively young man—Mr. Kay Shuttleworth—brought the matter before the new Parliament. Mr. Shuttleworth was the eldest son of Sir James Kay Shuttleworth, who had devoted a long

[1] *Hansard*, vol. ccxxii. pp. 101, 102.

[2] Cf. Mr. Shuttleworth's speech in *Hansard*, vol. ccxviii. p. 1954, with Mr. Cross's, *ibid.* vol. ccxxii. p. 106.

life to the improvement of education and the promotion of sanitary reform. He had been invited in 1873 to serve on a committee of the Charity Organisation Society appointed to inquire into the dwellings of the poorer classes, and the knowledge which he thus acquired convinced him of the importance of the subject, and induced him, with the concurrence of his colleagues, to bring the matter before the House of Commons.[1] He could not have either desired or obtained a more sympathetic audience. Mr. Cross assured him that 'no question was nearer or dearer to his own heart.' He had himself, in the present session, given an example of his own desire to deal with it effectively. For the Midland Railway Company had introduced a Bill to enable them to bring their railway into London; the works of the company were calculated to displace some thousands of the poorer classes, and the directors had endeavoured to evade the standing order of the Lords by making preliminary arrangements with the owners of the houses which they intended to pull down. Mr. Cross had interposed, and told the company that he would raise all the opposition in his power to the Bill passing if its promoters did not bring themselves within the operation of the standing order.[2] His conduct in this matter added force to his promise that the Government, at the first possible moment, would introduce a Bill with the view of securing to the people of the metropolis dwellings equal to those in other parts of the country, in which they could grow up to be, not slaves, but really men and women, in the enjoyment of happiness and comfort.[3]

Mr Kay Shuttleworth calls the attention of the House to the subject.

[1] *Hansard*, vol. ccxviii. p. 1944. [2] *Ibid.* p. 1985.
[3] *Ibid.* p. 1987.

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Artizans Dwellings Act.

Mr. Cross was as good as his word. On the first available night of the session of 1875 he introduced a measure applicable to the City of London, the metropolis, and the large towns. Under this Bill the medical officer of health was empowered, either on his own initiative or on the requisition of ratepayers, to certify a particular area an unhealthy district. The local authority, if satisfied of the truth of the report and the practicability of a remedy, could thereupon pass a resolution describing the district as an unhealthy area, and, with the approval of the Home Office in London or the Local Government Board in the country, prepare a scheme for its improvement. The value of the property to be acquired for the improvement was to be determined by arbitration, and the arbitrator was expressly directed to add nothing to its value in consideration of its being taken compulsorily. The local authority, after obtaining possession of the land, was at liberty either to dispose of it, on the express condition that dwellings should be erected on it for the labouring classes, or to erect the necessary buildings themselves. Finally, the Government undertook to save the local authority the expense of obtaining parliamentary authority for carrying out its scheme. The Government itself undertook to frame a provisional order for the purpose, and to take the responsibility of passing the order through Parliament.[1]

The Bill was undoubtedly a new departure in legislation. Parliament had never previously armed local authorities with compulsory powers to take property at its real value and not at the fictitious value which juries were disposed to attach to pro-

[1] See Mr. Cross's speech, *Hansard*, vol. ccxxii. p. 106.

perty so taken. Parliament, again, had not hitherto invested local authorities with all the responsibilities and liabilities attaching to great landlords. It was open to the individualist, indeed, to assert, as Mr. Fawcett did assert, that the working classes were quite able to take care of themselves,[1] and that there was no more reason why the Legislature should provide them than any other class of the community with suitable dwellings; but the notorious facts of the case made the House turn a deaf ear to arguments of this character. The time had come when opinion was no longer prepared to tolerate the existence of insanitary areas, which constituted a perpetual menace to the health of the community; and a measure which a few years before would have been rejected as an interference with the rights of property was accepted with almost unanimous satisfaction.[2]

Compulsory powers for taking property at its real value given by the Act.

It must not be supposed, however, that these Acts, important as they were, afforded an effectual remedy to an increasing difficulty. On the contrary the perpetual growth of the population continually added to the demand for more and more accommodation, and the new buildings which were erected were inadequate to meet the demands of the labouring classes. It rested, moreover, with the local authority to determine whether the law should be put in force, and the fear of adding to the ratepayers' growing burdens tended to arrest the action of authority. Mr. Cross's Act, like other measures with which history has to

[1] *Hansard*, vol. ccxxiii. p. 124.

[2] It ought perhaps to be added that in 1875 every local sanitary authority was required to appoint a medical officer of health and an inspector of nuisances. The policy of Sanitas (or of Sewage as Sir William Harcourt had called it) thus made progress all along the line. For the consolidation of the Public Health Acts in 1875 see *Hansard*, vol. ccxxii. p. 229, and 38 & 39 Vict. c. 55.

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deal, required to be amended and supplemented in years that were still to come. But when all that has been said, the fact remains that the Act of 1875 did enable municipalities to sweep away the worst plague spots in urban England.

Useful as the legislation of 1875 had been, it did not attract so much attention at the time as other and almost accidental occurrences which agitated the Legislature and perplexed the public. The time of the House of Commons in 1875 was largely occupied with personal questions and questions of privilege. Early in the session Mr. John Mitchel, the editor of the 'United Irishman,' who had been sentenced to penal servitude in 1848 for his share in the abortive rebellion of that year, who had escaped in 1850, and had since been residing in the United States, where he had been naturalised, was elected, in his absence in America, member for Tipperary. On Mr. Disraeli's motion the House decided[1] that a man who had been sentenced to transportation and who had neither served his sentence nor received a pardon was incapable of being elected or returned to Parliament. The House therefore ordered a new writ for Tipperary;

John Mitchel elected Member for Tipperary.

[1] The case was not absolutely free from doubt. The Attorney-General admitted in debate that Mr. Mitchel could not be compelled to serve out his sentence, and that he could not be prosecuted for prison breaking. But he held that having been convicted of felony, and having neither purged his crime nor received a pardon, he was incapable of sitting in the House. *Hansard*, vol. ccxxii. pp. 501–504. The circumstances of Mr. Mitchel's escape were related in the House of Commons by Mr. P. J. Smyth, who had been his fellow convict. *Ibid.*, p. 980. But cf. the official account, *Ibid.* p. 490. It ought perhaps to be added that in 1870 Mr. O'Donovan Rossa, who had been sentenced by Lord Kimberley's Special Commission of 1865 to penal servitude for life, had also been elected for Tipperary while still suffering his sentence, and on Mr. Gladstone's motion the House declared that he had become and continued incapable of being elected a member of this House. *Ibid.* vol. cxcix. p. 127. Cf. O'Brien's *Life of Parnell*, vol. i. p. 64, note, and p. 76.

and the electors of Tipperary, following the example which had been set them more than a century before by the electors of Middlesex, promptly re-elected Mr. Mitchel.[1] The grave inconveniences which might have eventually resulted from the second election were, however, solved by a power to which even the House of Commons must succumb. Mr. Mitchel, who was in poor health, died a few days after his second election, and the controversy which might have been renewed was buried in his grave.[2]

New writ issued for Tipperary.

Death of Mr. Mitchel.

Much as the ordinary English member disapproved the conduct of an Irish constituency in returning an escaped convict to Parliament, he viewed with still greater displeasure the almost simultaneous selection of Dr. Kenealy by an English constituency. Dr. Kenealy had led for the defence on the trial of Arthur Orton, the Wapping butcher and claimant of the Tichborne estates, for perjury.[3] Later on he had projected and edited a newspaper called the 'Englishman,' in which he had reasserted in a violent and libellous form the arguments which he had used at

Dr. Kenealy elected Parliament.

[1] At Mr. Mitchel's second election he was opposed by Captain Stephen Moore, a Conservative, who polled a comparatively small number of votes. He claimed the seat on the ground that the votes given to Mitchel were thrown away; and on the 27th of May, 1875, the House of Commons ordered that the name of Stephen Moore is hereby substituted for that of John Mitchel. The order follows the precedent of the 15th April, 1769, when the name of Henry Lewis Luttrell was substituted for that of John Wilkes. The decision of 1875, however, was based on a finding of the Irish Court of Common Pleas. *Ann. Reg.* 1875, Hist., p. 11, and *Hansard*, vol. ccxxiv. p. 918.

[2] Mr. Mitchel's brother-in-law, Mr. Martin, the member for Meath, caught cold at Mr. Mitchel's funeral, and died ten days afterwards. For the vacancy thus created, Mr. Parnell was returned, *Life of Parnell*, vol. i. p. 78. I do not know that the House of Commons could have helped declaring Mr. Mitchel's election void. But it is a strange example of the irony of events that it should have got rid of a Mitchel, and gained a Parnell.

[3] I have not thought it necessary to burden my pages with any account of the famous trial which excited between 1871 and 1874 a great deal more attention than

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the trial. He had, in consequence, been disbarred, and his unpopularity was so great that, on his election, he failed to obtain the services of any two members of the House to introduce him to the Speaker. On Mr. Disraeli's intervention the ordinary rule was waived for the occasion, and Dr. Kenealy 'having failed to secure the services of two members to introduce him' was suffered to take the customary oaths.[1] But verily the House of Commons was falling on evil days, when Ireland was sending to it a felon, and England a disbarred barrister.

He is allowed to take the oaths without introduction by two members.

Other personal questions arose throughout the session. An Irish member complained that a Conservative, Mr. Lopes, who afterwards became a judge and was raised to the Peerage, had spoken in the recess of the Irish members as a disreputable Irish band, whose watchword in the House was Home Rule and Repeal of the Union. A little later another Irish member drew attention to the simultaneous publication in the 'Times' and the 'Daily News' of the evidence taken before a select committee of the House, and of a letter addressed to the committee, reflecting gravely on the character of Captain Bedford Pim, the member for Gravesend.[2] But these incidents were forgotten or sank into unimportance when compared with another and much more striking occur-

Questions of privilege.

the decline and fall of Mr. Gladstone's administration.

[1] For the whole incident see *Hansard*, vol. ccxxii. p. 486.

[2] Mr. Lopes defended himself on the ground that the advocacy of measures calculated to impair the integrity of the United Kingdom is politically 'not creditable'; and that Johnson had defined 'disreputable' as not creditable (*Hansard*, vol. ccxxii. p. 270), a defence which was certainly 'not creditable' to Mr. Lopes, for the word 'disreputable' was not in Johnson at all. Cf. p. 321. Mr. Disraeli, with admirable tact, reminded the House that the offensive phrase was used in an after-dinner speech. 'Now after-dinner

rence. At the general election of 1868 Mr. Plimsoll, a merchant of position, was elected for Derby.

speeches are part of the manners and customs of the English people; and there is no assembly in the world in which there are more after-dinner speeches than in the House of Commons.' If the phrase had been applied to his own colleagues they would, he believed, have taken no notice of it. But this fact should not deprive the Irish members of the redress which it is 'the privilege as well as duty of an English gentleman when he has done wrong' to afford. *Ibid.* pp. 331, 332. The other charge related to a more serious matter, and was dealt with far less happily by the Prime Minister. Four South American republics, Honduras, Costa Rica, San Domingo, and Paraguay, failed to pay the interest on the large debts which they had contracted in European markets, and on the motion of Sir Henry James, a committee was appointed to consider *inter alia* the circumstances attending the making of contracts for such loans. The report of the committee did much to confirm the scandalous reports of the manner in which some most unscrupulous persons had succeeded in disposing of these loans at great profit to themselves to a credulous public. Cf. *Ann. Reg.* 1875, p. 59. But in the course of the inquiry, M. Herran, a Parisian capitalist, who was gravely implicated, addressed a letter to Mr. Lowe, the chairman of the committee, complaining of evidence given to the committee by Captain Pim, and accusing Captain Pim of grave misconduct. This letter was published, with the report of the evidence, on the following day by the *Times* and the *Daily News*, and Mr. Lewis, the member for Londonderry, moved that the publication was a breach of privilege, and asked that the printers of the papers should be ordered to attend at the bar. Mr. Disraeli most unwisely supported the proposal (*Hansard*, vol. ccxxiii. p. 795), and the printers of the *Times* and *Daily News* were ordered to attend on the following Friday (the 16th of April). Before that day came he had the perspicacity to see the mistake he had made, and instead of persevering in his original proposal, he persuaded the House to refer the matter back to Mr. Lowe's committee, and to ask the committee to report whether it had communicated M. Herran's letter to the said newspapers, and in the meanwhile, before the report was received, persuaded the House to discharge the printers from further attendance. This new departure made the position of the Ministry rather ridiculous; for it had prevailed on the House to order the attendance of the printers on Tuesday, and to discharge them from further attendance on Friday. But the House felt that it was much better to be prudent than to be logical, and that a sacrifice of consistency was a small price to pay for an escape from an impracticable situation. *Hansard*, vol. ccxxiii. pp. 1114–1152. One difficulty, however, is apt to produce another. Mr. Sullivan, the member for Louth, asked Mr. Disraeli whether, in consequence of what had passed, he proposed to deal with the present anomalous relations between the House and the public press as to the reports of its proceedings; and, on failing to receive a reply, announced that he should on the morrow and every succeeding day call attention

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Mr. Plimsoll and unseaworthy ships.

Mr. Plimsoll's attention had been directed—on the occasion of a memorable voyage—to the lamentable loss of life on our coasts; and he satisfied himself that much of this loss was attributable to the recklessness of shipowners in sending vessels to sea, which in many instances were unseaworthy, and also frequently overloaded. As far back as 1870 Mr. Plimsoll brought the subject before the House;[1] in 1871 he followed up his action by introducing a Bill to prevent unseaworthy ships from going to sea at all, and seaworthy ships from being greatly overloaded. In 1872 he strengthened his case by publishing a book which he styled 'Our Seamen,' and which was really an appeal to the public to insist on legislation for preventing a scandalous state of things and a lamentable waste of life. His book, which was widely circulated, created a great impression; and, in 1873, Mr. Gladstone's Government, which had previously shown little anxiety to further Mr. Plimsoll's object, found it necessary to accept a proposal which he

to the presence of strangers. *Ibid.* p. 1451. The position that was thus created was so intolerable that Lord Hartington decided on introducing three resolutions declaring (1) that the House would entertain no complaint of the publication of debates except when such debate shall have been conducted with closed doors; (2) that strangers should not be ordered to withdraw on notice being taken of their presence unless by (3) an order of the House of which notice shall have been given. *Ibid.* p. 1819. On the debate on these resolutions, vol. ccxxiv. p. 48. Mr. Sullivan carried out his threat of enforcing the exclusion of strangers. *Ibid.* p. 87. His action, repeated on other occasions, convinced a reluctant Government that some alteration in the practice was necessary; and finally Mr. Disraeli consented to a resolution that, when notice was taken of the presence of strangers, the Speaker or Chairman of Committee should forthwith put the question, on which neither debate nor amendment should be permitted. *Ibid.* p. 1185. It is curious to reflect that an order of the House directing the printers of two newspapers to attend should have led directly to an alteration of practice giving to newspapers for the first time in our history a practical right to be present at all debates.

[1] *Hansard*, vol. cciii. p. 1105.

made for the appointment of a Royal Commission to inquire into the subject.[1] In 1874, after the Commission had reported, Mr. Plimsoll again introduced his measure, and the second reading was only defeated by a majority of three votes.[2]

His Merchant Shipping Survey Bill defeated by three votes.

The story that Mr. Plimsoll had to tell was a very sad one. There was no doubt that a very large number of seamen annually lost their lives at sea. Mr. Chichester Fortescue, speaking as the President of the Board of Trade, in 1873, said that on the best authority within his reach, the number so lost in 1871 was 1500.[3] Mr. Plimsoll declared that the larger portion of this lamentable loss of life arose from causes which could easily be prevented. Ships, he argued, were sent to sea 'so rotten that the sails split at the first breath of a gale; so rotten that you could drive a table-knife up to the handle into the hull; or the end of your umbrella into the planks.' Ships, rotten and sound, were sent to sea so overladen 'as to leave a freeboard of only 20 inches instead of 5 feet.'[4] If the crews 'cajoled' on board these 'coffin' ships refused to proceed to an almost certain death they could be—they were constantly—punished for breaking their engagements, whilst the owner, suffered by law to insure for 1000*l.* a ship for which he had only given 300*l.*,[5] had a direct pecuniary interest in the loss of his property. Legislation requiring that unclassed ships should be surveyed by a Government surveyor, and prohibiting over-

Mr. Plimsoll's allegations.

[1] *Hansard*, vol. ccxiv. pp. 1319, 1348. The names of the Commissioners, over whom the Duke of Somerset presided, will be found in *ibid.*, vol. ccxv. p. 299.

[2] *Ibid.*, vol. ccxx. pp. 344 *seq.*

[3] *Ibid.*, vol. ccxiv. p. 1342.

[4] Both the allegations are in *Hansard*, vol. cciv. p. 671.

[5] See an example, *ibid.* p. 665.

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loading would, so Mr. Plimsoll argued, effect a rapid improvement, and reduce to one-third of its amount the lamentable loss of life which annually occurred.

Neither the men who were engaged in the shipping trade, nor the men who were the spokesmen for official England, could deny the truth of many of Mr. Plimsoll's allegations, but they held that there was no necessity for the drastic remedies which he was proposing. The condition of things might be bad, but it was improving; the number of lives lost at sea might be large, but it was decreasing;[1] the remedy which Mr. Plimsoll was proposing would impose an intolerable task on the Government, which could not undertake without a huge army of officers the survey of all the unclassed vessels which were engaged in trade.

Mr. Plimsoll's opponents.

Just as years before men of excellent sense had resisted the passage of the Factory Acts on the ground that the evils of the factory system might be left to cure themselves, so in the seventies many men of character and position were indisposed to interfere with the great shipping interest, and preferred to leave the abuses, which they could not altogether deny, to their own remedy.[2]

In the meanwhile, however, the reluctance of the Government to legislate was not endorsed by public opinion. Mr. Plimsoll's speeches in the House, the arguments which he had employed in his book, had done their work, and the people were determined

[1] See Mr. Eustace Smith's speech, *Hansard*, vol. cciv. p. 674.

[2] See Mr. Chichester Fortescue's speech, *Hansard*, vol. ccxiv. p. 1340. Mr. Chichester Fortescue had carried an Act in 1871 which *inter alia* had made the sending an unseaworthy ship to sea a misdemeanour. The Act, however, had proved inoperative. *Ibid.* p. 1347.

that the time had come for effectual precautions to be taken against a loss of life which Mr. Plimsoll had persuaded them could be avoided by proper legislation. The Duke of Somerset's Commission reported too late in 1874 to make it practicable to legislate in that year.[1] But at the commencement of the session of 1875 the Government found it necessary to introduce a measure, and even to announce it in the Speech from the Throne. The Bill, which was brought in by Sir Charles Adderley, who held the office of President of the Board of Trade in Mr. Disraeli's Administration, did not go very far in the direction which Mr. Plimsoll desired. But it threw on the shipowners the liability 'for any damage to persons or property caused by their having knowingly and without excuse sent unseaworthy ships to sea.'[2] It made slow progress, under the guidance of a passionless Minister, through an unsympathetic Parliament, and towards the end of July Mr. Disraeli announced its withdrawal. He explained that he could not within a reasonable time hope to pass that measure as well as another Bill which enabled owners with limited rights 'to offer to their tenantry a sufficient security for judicious outlay upon the farms they occupy';[3] and a Bill for improving agriculture appealed more directly to a Cabinet largely composed of landlords than a Bill intended to save life at sea. Accordingly, with an expression of unfeigned and unaffected regret, Mr. Disraeli bowed to the inevitable, and sacrificed Sir Charles Adderley's

Government introduce a Merchant Shipping Bill.

Withdrawal of the Bill announced in July.

[1] *Hansard*, vol. ccxxi. p. 132. The report of the Commission will be found in *Parl. Papers*, 1874, No. 1027.

[2] *Hansard*, vol. ccxxii. p. 129.

[3] I have described the object of this mild Agricultural Holdings Act in the words in which it was described by its authors.

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proposal.[1] Even Mr. Disraeli's imagination could not have conceived the scene which his announcement produced. Mr. Plimsoll believed, from the bottom of his soul, that unscrupulous shipowners, in Parliament and out of Parliament, were knowingly sacrificing hundreds of valuable lives by wilfully and habitually sending unseaworthy and overladen ships to sea. Just as in the old days of Protection a great economist declared that the fishing boats of England went to sea to catch the bounty and not to catch the fish, so Mr. Plimsoll thought that the interest of these men lay not in the safety of the vessel but in the sum for which she was insured.

Mr. Plimsoll's indignation.

He thought that the cumbrous Bill which the Government, after having been forced to introduce it, was now abandoning, had afforded 'unlimited facilities for death-dealing volubility and hypocritical amendment;' and he believed that the withdrawal of the Bill would 'consign some thousands of living human beings to undeserved and miserable death.' Here at any rate was no quack with a patent plaster for covering a bleeding wound, but a man with faith in his views and faith in his remedy—a man who sincerely believed that not a single ship had been broken up voluntarily by its owners for thirty years; that of 15,000 vessels on Lloyd's register 2654 had gone off their class and forfeited their position from want of repairs;[2] that 'continually every winter hundreds and hundreds of brave men were sent to death, their wives made widows, their children orphans, in order that a few speculative scoundrels, in whose

[1] Mr. Disraeli followed the advice which Sir Stafford Northcote gave him on the matter. Respecting Sir Stafford's language in the House, *Life of Northcote*, vol. ii. p. 77.

[2] Cf. *Hansard*, vol. ccxxvi. p. 234.

hearts there is neither the love of man nor the fear of God, might make unhallowed gains.' There were shipowners who had never built a ship or bought a new ship, who were known as ship knackers. He had accidentally overheard a member of the House of Commons described as a ship knacker; and, his excitement increasing as he proceeded, he announced his intention of asking whether the man who had lost five ships in the preceding year was the Conservative member for Plymouth, or some other person of the same name. He added that he would ask some questions also about members on his own side of the House,[1] as he was 'determined to unmask the villains who send men to death and destruction.'

Scene in the House.

At this point the Speaker naturally interposed in the interests of order; and, as Mr. Plimsoll, in a state of increasing excitement, deliberately repeated that he had applied the term 'villains' to members of the House and that he refused to withdraw it, the Speaker had no alternative but to report his conduct to the House, and Mr. Disraeli had no alternative but to move that he should be reprimanded. On his motion, however, an Irishman, Mr. Sullivan, declared, in an admirable speech, that he knew that overstrain, acting upon a very sensitive temperament, had placed Mr. Plimsoll in a condition of agitation which had made him extremely ill, and which, it might be hoped, would secure for him considerate treatment. Mr. Disraeli, who was always considerate in his treatment of an opponent, at once consented to defer his motion

[1] Mr. Plimsoll, in 1873, had been charged with a breach of privilege for a passage about our seamen seriously reflecting on the character of shipowners, members of the House. He had apologised to the House for an 'inadvertent offence,' and the matter had fallen through. *Hansard*, vol. ccxiv. pp. 733-743.

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for a week, and, at the end of that term, accepted the apology which Mr. Plimsoll addressed, not to individuals, but to the House.[1]

So far as the personal question was concerned, the matter practically ended with this apology.[2] But Mr. Plimsoll's attitude, if it had brought him into collision with the House, had brought the whole question of unseaworthy ships into a prominence which neither his speeches nor his book had previously given to it. The public, almost unanimously, demanded that legislation should take place; and the Government, after withdrawing their measure on the 22nd of July, found themselves forced to introduce a new Bill on the 28th of July. In introducing the Bill, Sir Charles Adderley incidentally did much to corroborate Mr. Plimsoll's allegations. He said that under the Acts of 1871 and 1873 the Board of Trade had stopped 558 vessels on the ground that they were unseaworthy, and 58 others on the ground that they were overloaded; that of the 558 vessels 515 on investigation had been proved unseaworthy, and that of the 58 all of them had to be lightened of their cargoes. Sir Charles Adderley maintained that these figures showed how carefully the Board of Trade had done its work; the public, on the contrary, thought that this fully justified Mr. Plimsoll's conduct and excused his unparliamentary behaviour. Sir Charles proposed to strengthen his department by appointing a sufficient number of officers to survey and detain unseaworthy and overladen ships, and

A new Bill introduced.

[1] *Hansard*, vol. ccxxv. p. 1822 and vol. ccxxvi. p. 178.

[2] It ought perhaps to be added that Mr. Bates moved for a select committee to inquire into the allegations against him, and that the House, instead of granting the committee, passed a resolution to the effect that no stain rested on his character. *Ibid.*, pp. 340 *seq.*

he indicated his intention of bringing forward more thorough legislation in 1876 by asking for these powers only for a year.[1] The House of Commons, urged forward by the excitement out of doors, found time not only to pass but to strengthen the measure.[2] and passed.

The passage of the Bill afforded emphatic testimony to what a House of Commons can do when public opinion out of doors is thoroughly aroused. But its passage did not reflect much credit on the Ministry which carried it. The Prime Minister himself had withdrawn on the 22nd of July the measure which had been announced in the Speech from the Throne, on the ground that there was no time to carry it, and that it was undesirable to deal with it in a fragmentary manner; and six days later he had been compelled by Mr. Plimsoll's excitement and the pressure of public opinion to introduce a new Bill, which he found no difficulty in carrying. Its passage had not materially prolonged the session, for, on the 22nd of July Mr. Disraeli had anticipated that, if the

Motive force of public opinion.

[1] *Hansard*, vol. ccxxvi. p. 145.

[2] The Government consented to clauses (1) compelling the shipowner to define his load line; (2) regulating the carriage of grain, when one-third of the cargo consisted of grain; and (3) making the shipowner or the master who sent or took out an unseaworthy ship to sea guilty of a misdemeanour. *Ibid.*, pp. 420, 430, 576, 581. The last of these clauses was known as the Herschell clause, having been proposed by Mr. (afterwards Lord) Herschell. It is interesting to observe that the Act of 1854 made any master or seaman who, by neglect of duty, endangered life, guilty of a misdemeanour. The Act of 1871 extended this liability to the owner; the Act of 1875 extended it to the master who took an unseaworthy ship to sea. It is perhaps more significant that, under the Act of 1854, there were no successful prosecutions; that under the Act of 1871 there were only two. But, after the passing of the Act of 1875, the law was more actively put in force. (See Sir Charles Adderley's speech, *Hansard*, vol. ccxxvii. pp. 167, 168.) Sir C. Adderley ascribes the change to the presence of a very efficient law officer at the Board of Trade. The cynical observer, acquainted with the interior of public offices, will probably consider that it was attributable to the excitement which Mr. Plimsoll's 'disorderly' conduct fortunately created.

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Bill were dropped, the business of the session might be concluded 'on the 10th or 12th of August,'[1] and, as a matter of fact, the House held its last sitting on the 11th, and adjourned for the formal prorogation on the 13th.[2]

The effect of Mr. Plimsoll's excitement endured long after the session of 1875. It induced the Government to place the reform of the Merchant Shipping Acts on the forefront of their programme in 1876; to authorise the introduction of a bill on the first available night of the session;[3] to incorporate in their measure the salient provisions of the temporary Act of the preceding year, and to strengthen it by regulating the carriage of deck loads, by prohibiting deck loads in the winter months,[4] and by applying these provisions as to overloading to foreign as well as to British vessels.[5]

Further legislation on the subject.

This legislation differed in character from that which Mr. Plimsoll himself advocated. He desired that when a ship had been disclassed at Lloyd's or elsewhere, it should not be permitted to proceed to sea till it had been surveyed and passed by a Government officer. The Government, on the contrary, refused to take upon itself the responsibility of giving a certificate of seaworthiness to thousands of vessels which were presumably among the less unseaworthy of those in the mercantile marine, and preferred—probably rightly preferred—to throw the responsibility on owners and masters, and only to interfere when interference was claimed by a fixed proportion of the crew. How far the legislation

Character and effect of this legislation.

[1] *Hansard*, vol. ccxxv. p. 1821.
[2] *Ibid.*, vol. ccxxvi. p. 869.
[3] *Ibid.*, vol. ccxxvii. p. 163.
[4] For this additional clause see *Hansard*, vol. ccxxviii. p. 1922.
[5] *Ibid.*, p. 1944.

which was then adopted was successful is a very difficult matter to determine. There is no doubt that the power which the Board of Trade received to detain unseaworthy ships virtually superseded the provision which made it a misdemeanour to send an unseaworthy ship to sea. For 'when a shipowner was prosecuted for sending a ship to sea in grossly unseaworthy condition, and the fact was distinctly proved,' it was answered 'that the Board of Trade might have stopped the ship and did not do so,' and the answer was accepted by judge and jury as conclusive on a criminal charge.[1] A few years later on, moreover, the constant increase in the loss of life at sea led to the appointment of a fresh Royal Commission and to fresh legislation. The writer who is aware of such facts as these will not be prone to attach undue importance to the Act of 1876. On the other hand he will recognise that the increased powers which it gave to the Board of Trade, the increased responsibility which it threw on owner and master marked a new era in legislation. It displayed an increasing determination to arm the State with authority to prevent abuse; it showed a growing disinclination, in the complex conditions of modern society to rely on the doctrine of *laissez faire*.

[1] See Lord Farrer, *State in Relation to Trade*, p. 127.

THE END OF THE THIRD VOLUME.

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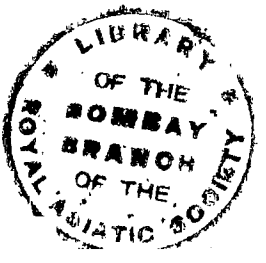

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